THE PAYMENT OF BONUS ACT, 1965

INTRODUCTION

The practice of paying bonus in India appears to have originated during First World War when certain textile mills granted 10% of wages as war bonus to their workers in 1917. In certain cases of industrial disputes demand for payment of bonus was also included. In 1950, the Full Bench of the Labour Appellate evolved a formula for determination of bonus. A plea was made to raise that formula in 1959. At the second and third meetings of the Eighteenth Session of Standing Labour Committee (G. O.I.) held in New Delhi in March/April 1960, it was agreed that a Commission be appointed to go into the question of bonus and evolve suitable norms. A Tripartite Commission was set up by the Government of India to consider in a comprehensive manner, the question of payment of bonus based on profits to employees employed in establishments and to make recommendations to the Government. The Government of India accepted the recommendations of the Commission subject to certain modifications. To implement these recommendations the Payment of Bonus Ordinance, 1965 was promulgated on 29th May, 1965. To replace the said Ordinance the Payment of Bonus Bill was introduced in the Parliament.

STATEMENT OF OBJECT AND REASONS

A Tripartite Commission was set by the Government of India by their resolution No.WB-20(9)/61, dated 6th December, 1961 to consider in a comprehensive manner, the question of payment of bonus based on profits to employees employed in establishments and to make recommendations to the Government. The Commission's Report containing their recommendations was received by the Government on 24th January, 1964. In their Resolution No. WB-20(3)/64, dated the 2nd September, 1964, the Government announced acceptance of the Commission's recommendations subject to a few modifications as were mentioned therein. With a view to implement the recommendations of the Commission as accepted by the Government, the Payment of Bonus Ordinance, 1965, was promulgated on 29th May, 1965. The object of the Bill is to replace the said Ordinance.

The notes on clauses explain the various provisions of the Bill.

ACT 21 OF 1965

The Payment of Bonus Bill having been passed by both the Houses of Parliament received the assent of the President on 25th September, 1965. It came on the Statute Book as THE PAYMENT OFBONUS ACT, 1965 (21 of 1965).

LIST OF AMENDING ACTS

1. The Insurance (Amendment) Act, 1968 (62 of 1968).
2. The Payment of Bonus (Amendment) Act, 1969 (8 of 1969).
3. The Central Labour Laws (Extension of Jammu And Kashmir) Act, 1970 (51 of 1970).
4. The Payment of Bonus (Amendment) Act, 1972 (68 of 1972).
5. The Payment of Bonus (Amendment) Act, 1973 (39 of 1973).
6. The Payment of Bonus (Second Amendment) Act, 1973 (55 of 1973). 7. The Payment of Bonus (Amendment) Act, 1974(42 of 1974).
8. The Payment of Bonus (Amendment) Act, 1976(23 of 1976).
9. The Payment of Bonus (Amendment) Act, 1977 (43 of 1977) [as amended by the Payment of Bonus (Amendment) Act, 1978 (48of 1978) and the Payment of Bonus (Amendment) Act, 1980 (5 of 1980)].

10. The Payment of Bonus (Second Amendment) Act, 1980 (66 of 1980). 11. The National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981).

12. The Payment of Bonus (Amendment) Act, 1985 (30 of 1985).

13. The Payment of Bonus (Second Amendment) Act, 1985 (67of 1985). 14. The National Housing Bank Act, 1987 (53 of 1987).

15. The Small Industries Development Bank of India Act, 1989 (39 of 1989). 16 The Payment of Bonus (Amendment) Act, 1995 (34 of 1995).

THE PAYMENT OF BONUS ACT, 1965

(21 of 1965)[1]

[25th September, 1965]

[2][An Act to provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith.]

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:-

1. **Short title, extent and application**.-(1) This Act may be called the Payment of Bonus Act, 1965.

(2) It extends to the whole of India[3][***].

(3). Save as otherwise provided in this Act, it shall apply to –

(a) every factory; and

(b) every other establishment in which twenty or more persons are employed on any day during an accounting year.

[4][Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act with effect from; such accounting year as may be specified in the notification, to any establishment or class of establishment [including an establishment being a factory within the meaning of sub-clause (ii) of clause (m) of section 2 of the Factories Act, 1948 (63 of 1948)] employing such number of persons less than twenty as may be specified in the notification; so, however, that the number of persons so specified shall in no case be less than ten.]

(4). Save as otherwise provided in this Act, the provisions of this Act shall, in relation to a factory or other establishment to which this Act applies, have effect in respect of the accounting year commencing on any day in the year 1964 and in respect of every subsequent accounting year:

[5][Provided that in relation to the State of Jammu and Kashmir, the reference to the accounting year commencing on any day in the year 1964 and every subsequent accounting year shall be construed as reference to the accounting year commencing on any day in the 1968 and every subsequent accounting year:]

[4][Provided further that when the provisions of this Act have been made applicable to any establishment or class of establishments by the issue of a notification under the proviso to sub-section (3), the reference to the accounting

1 The Act has been extended to Goa, Daman and Die by Act 6 of 1977, sec. 2 and sch.

2 Subs. by Act 23 of 1976, sec. 2, for the long title (w.r.e.f 25-9-1975).

3 The words "except the State of Jammu and Kashmir" omitted by Act 51 of 1970, sec. 2 and sch. (w.e.f 1-9-1971).

4 Ins. by Act 23 of 1976, sec. 3 (w.r.e.f 1-9-1975).

5 Added by Act 51 of 1970 sec. 2 and sch. (w.e.f 1-9-1971)

year commencing on any day in the year 1964 and every subsequent accounting year or, as the case may be the reference to the accounting year commencing on any day in the year

1968 and every subsequent accounting year, shall, in relation to such establishment or class of establishments, be construed as a reference to the accounting year specified in such notification and every subsequent accounting year.]

(5) An establishment to which this Act applies [1][***] shall continue to be governed by this Act notwithstanding that the number of person employed therein falls below twenty [2][or, as the case may be, the number specified in the notification issued under the proviso to sub-section (3)].

2. Definition.- In thisAct, unless the context otherwise requires,-

(1) "accounting year" means -

(i) in relation to a corporation, the year ending on the day on which the books and accounts of the corporation are to be closed and balanced.

(ii) in relation to a company, the period in respect of which any profit and loss account of the company laid before it in annual general meeting is made up, whether that period is a year or not;

(iii) in any other case -

(a) the year commencing on the 1st day of April; or

(b) if the accounts of an establishment maintained by the employer thereof are closed and balanced on any day other than the 31st day of March, then, at the option of the employer, the year ending on the day on which its accounts are so closed and balanced:

Provided that an option once exercised by the employer under paragraph (b) of this sub-clause shall not again be exercised except with the previous permission in writing of the prescribed authority and upon such conditions as that authority may think fit;

(2) "agricultural income" shall have the same meaning as in the Income-tax Act;

(3) "agricultural income-tax law" means any law for the time being in force relating to the levy of tax on agricultural income;

(4) "allocable surplus" means-

(a) in relation to an employer, being a company [3][(other than a banking company)] which has not made the arrangements prescribed under the Income-tax Act for the declaration and payment within India of the dividends payable out of its profits in accordance with the provisions of

1 The words "under clause (b) of sub-section (3)" omitted by Act pf 1976, sec. 3 (w.r.e.f. 25.9.1975) 2 Added by Act 23 of 1976, sec. 3 (w.r.e.f. 25.9.1975)

3 Omitted by Act 23 of 1976, sec. 4(w.r.e.f. 25.9.1975) and ins. by Act 66 of 1980, sec. 2 (w.r.e.f. 21.8.1980)

section 194 of that Act, sixty-seven per cent of the available surplus in an accounting; year;

(b) in any other case, sixty percent of such available surplus;

[1][***]

(5) "appropriate Government" means-

(i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situate;

(6) "available surplus" means the available surplus computed under section 5; (7) "award" means an interim or a final determination of any industrial dispute or of any question

relating thereto by any Labour Court, Industrial Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947), or by any other authority constituted under any corresponding law relating to investigation and settlement of industrial disputes in force in a State and includes an arbitration award made under section 10A of that Act or under that law;

(8) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949 (10 of 1949), and includes the State Bank of India, any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) [2][any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), [3][any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Under takings) Act, 1980 (40 of 1980),] any co-operative bank as defined in clause (bii) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934),] and any other banking institution which may be notified in this behalf by the Central Government;

(9) "company" means any company as defined is section3 of the Companies Act, 1956 (1 of 1956), and includes a foreign company within the meaning of section 591 of that Act;

(10) "co-operative society" means society registered or deemed to be registered under the Co-operative Societies Act, 1912 (2 of 1912), or any other law for the time being in force in any State relating to co-operating societies; (11) "corporation" means any body corporate established by or under any Central, Provincial or State Act but does not include a company or a co- operative society;

(12) "direct tax" means-

(a) any tax chargeable under-

(i) the Income-tax Act;

(ii) the Super Profits Tax Act, 1963 (14 of 1963);

(iii) the Companies (Profits) Surtax Act, 1964 (7 of 1964);

[1] Certain words omitted by Act 23 of 1976, sec. 4 (w.r.e.f. 25.9.1975) [2] Ins. by Act 23 of 1976, sec. 4 (w.r.e.f. 25.9.1975)

[3] Ins. by Act 66 of 1980, sec. 2 (w.r.e.f. 21.8.1980)

(iv) the agricultural income-tax law; and

(b) any other tax which, having regard to its nature or incidence, may by declared by the Central Government, by notification in the Official Gazette, to be a direct tax for the purposes of this Act;

(13) "employee" means any person (other than an apprentice) employed on a salary or wage not exceeding [1][three thousand and five hundred rupees] per mensem in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied;

(14) "employer includes-

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of the factory under clause (f) of sub- section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing agent, such

manager, managing director or managing agent; (15) "establishment in private sector" means any establishment other than an establishment in public sector;

(16) "establishment in public sector" means an establishment owned, controlled or managed by-

(a) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(b) a corporation in which not less than forty per cent of its capital is held (whether singly or taken together) by-

(i) the Government; or

(ii) the Reserve Bank of India; or

(iii) a corporation owned by the Government or the Reserve Bank of India;

(17) "factory" shall have the same meaning as in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(18) "gross profits" means the gross profits calculated under section 4;

(19) "Income-tax Act" means the Income-tax Act, 1961 (43 of 1961);

(20) "prescribed" means prescribed by rules made under this Act;

(21) "salary or wage" means all remuneration (other than remuneration in respect of over-time work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment and includes dearness allowance (that is to say, all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living), but does not include-

1 subs. by Act 34 of 1995, sec. 2 for 'two thousand and five hundred rupees' (w.r.e.f. 1.4.1993)

(i) any other allowance which the employee is for the time being entitled to;

(ii) the value of any house accommodation or supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;

(iii) any traveling concession;

(iv) any bonus (including incentive, production and attendance bonus); (v) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law for the time being in force;

(vi) any retrenchment compensation or any gratuity or other retirement benefit payable to the employee or any ex gratia payment made to him; (vii) any commission payable to the employee.

Explanation. – Where an employee is given in lieu of the whole or part of the salary or wage payable to him, free food allowance or free food by his employer, such food allowance or the value of such food shall, for the purpose of this clause, be deemed to from part of the salary or wage of such employee;

(22) words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 (14 of 1947) shall have the meanings respectively assigned to them in that Act.

3. Establishments to include departments, undertakings and branches.-- Where an establishment consists of different department or undertakings or has branches, whether situated in the same place or in different places, all; such departments or undertakings or branches shall be treated as parts of the same establishment for the purpose of computation of bonus under this Act:

Provided that where for any accounting year a separate balance-sheet and profit and loss account are prepared and maintained in respect of any such department or undertaking or branch, then such department or undertaking or branch shall be treated as a separate

establishment for the purpose of computation of bonus, under this Act for that year, unless such department or undertaking or branch was, immediately before the commencement of that accounting year treated as part of the establishment for the purpose of computation of bonus.

[1][**4. Computation of gross profits.**—The gross profits derived by an employer from an establishment in respect of the accounting year shall—

(a) in the case of a banking company, be calculated in the manner specified in the First Schedule;

(b) in any other case, be calculated in the manner specified in the Second Schedule;]

5. Computation of available surplus.—The available surplus in respect of any accounting year shall be the gross profits for that year after deducting therefrom the sums referred to in section 6;

[2][Provided that the available surplus in respect of the accounting year commencing on any day 1968 and in respect of every subsequent accounting year shall be the aggregate of –

1 Subs. by Act 66 of 1980, sec. 3, for section 4 (w.r.e.f. 21.8.1980) 2 Added by Act 8 of 1969, sec. 2 (w.r.e.f. 26.3.1969)

(a) the gross profits for that accounting year after deducting therefrom the sums referred to in section 6; and

(b) an amount equal to the difference between --

(i) the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for the immediately preceding accounting year; and

(ii) the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for such preceding accounting year after deducting therefrom the amount of bonus which the employer has paid or is liable to pay to his employees in accordance with the provisions of this Act for that year.]

6. Sums deductible from gross profits.—The following sums shall be deducted from the gross profits as prior charges, namely:-

(a) any amount by way of depreciation admissible in accordance with the provisions of sub-section (1) of section 32 of the Income-tax Act, or in accordance with the provisions of the agricultural income-tax law, as the case may be:

Provided that where an employer has been paying bonus to his employees under a settlement or an award or agreement made before the 29th May, 1965, and subsisting on that date after deducting from the gross profits notional normal depreciation, then, the amount of depreciation to be deducted under this clause shall, at the option of such employer (such option to be exercised once and within one year from the date) continue to be such notional normal depreciation;

(b) any amount by way of [1][development rebate or investment allowance or development allowance] which the employer is entitled to deduct from his income under the income-tax Act;

(c) subject to the provisions of section 7, any direct tax which the employer is liable to pay for the accounting year in respect of his income, profits and gains during that year;

(d) such further sums as are specified in respect of the employer in the [2][Third Schedule].

7. Calculation of direct tax payable by the employer.—[3][Any direct tax payable by the employer] for any accounting year shall, subject to the following provisions, be calculated at the rates applicable to the income of the employer for that year, namely:-

(a) in calculating such tax no account shall be taken of --

[1] Subs. by Act 66 of 1980, sec. 4, for :development rebate or development allowance" (w.r.e.f. 21.8.1980)

[2] Subs. by Act of 1980,, sec. 4, for "Second Schedule: (w.r.e.f. 21.8.1980)

[3] Subs. by Act 8 of 1969, Sec. 3, for "For the purpose of clause (c) of section 6, direct tax payable by the employer " (w.r.e.f. 26.3.1969)

(i) any loss incurred by the employer in respect of any previous accounting year and carried forward under any law for the time being in force relating to direct taxes;

(ii) any arrears of depreciation which the employer is entitled to add to the amount of the allowance for depreciation for any following accounting year or years under sub-section (2) of section 32 of the Income-tax Act;

(iii) any exemption conferred on the employer under section 84 of the Income-tax Act or of any deduction to which he is entitled under sub-section (1) of section,101 of that Act, as in force immediately before the commencement of the Finance Act, 1965 (10 of 1965);

(b) where the employer is a religious or a charitable institution to which the provisions of section 32 do not apply and the whole or any part of its income is exempt from tax under the Income-tax Act, then, with respect to the income so exempted, such institution shall be treated as if it were a company in which the public are substantially interested within the meaning of that Act;

(c) where the employer is individual or a Hindu Undivided Family, the tax payable by such employer under the Income-tax Act shall be calculated on the basis that the income derived by him from the establishment is his only income;

(d) where the income of any employer includes any profits and gains derived from the export of any goods or merchandise out of India and any rebate on such income in allowed under any law for the time being in force relating to direct taxes, then, no account shall be taken of such rebate;

(e) no account shall be taken of any rebate [1][(other than development rebate or investment allowance or development allowance)] or credit or relief or deduction (not herein before mentioned in this section) in the payment of any direct tax allowed under any law for the time being in force relating to direct taxes or under the relevant annual Finance Act, for the development of any industry.

8. Eligibility for bonus.—Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.

9. Disqualification for bonus.—Notwithstanding anything contained in this Act, an employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for --

(a) fraud; or

(b) riotous or violent behaviour while on the premises of the establishment; or

(c) theft, misappropriation or sabotage of any property of the establishment.

[1] subs. by Act 66 of 1980, sec. 5, "(other than development rebate or development allowance)"

[1]**[10. Payment of minimum bonus.**—Subject to the other provisions of this Act, every employer shall be bound to pay to every employee in respect of the accounting year

commencing on any day in the year 1979 and in respect of every subsequent accounting year, a minimum bonus which shall be 8.33 per cent of the salary or wage earned by the employee during the accounting year or one hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year:

Provided that where an employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effecting relation to such employee as if for the words "one hundred rupees", the words "sixty rupees" were substituted.]

2**[11. Payment of maximum bonus.**—(1) Where in respect of any accounting year referred to in section 10, the allocable surplus exceeds the amount of minimum bonus payable to the employees under that section, the employer shall, in lieu of such minimum bonus, be bound to pay to every employee in respect of that accounting; year bonus which shall be an amount in proportion to the salary or wage earned by the employee during the accounting year subject to a maximum of twenty per cent, of such salary or wage.

(2) In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of section 15 shall be taken into account in accordance with the provisions of that section.]

3**[12. Calculation of bonus with respect to certain employees.**—Where the salary or wage of an employee exceeds 4[two thousand and five hundred rupees] per mensem, the bonus payable to such employee under section 10 or, as the case may be, under section 11, shall be calculated as if his salary or wage were [two thousand and five hundred rupees] per mensem.]

5**[13. Proportionate reduction in bonus in certain cases.**—Where an employee has not worked for all the working days in an accounting year, the minimum bonus of one hundred rupees or, as the case may be, of sixty rupees, if such bonus is higher than 8.33 per cent, of his salary or wage for the days he has worked in that accounting year, shall be proportionately reduced.]

14. Computation of number of working days.—For the purposes of section 13, an employee shall be deemed to have worked in an establishment in any accounting year also on the days on which--

(a) he has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946

1 Section 10, subs. by Act 23 of 1976, sec. 7 (w.r.e.f. 25.9.1975) and again subs. Act of 66 of 1980, sec. 6 (w.r.e.f. 21.8.1980)

2 Section 11 omitted by Act 23 of 1976, sec. 8 (w.r.e.f.) and ins. by Act 66 of 1980, sec. 6 (w.r.e.f. 21.8.1980)

3 Section 12 omitted by Act 30of 1985, sec. 2 and ins. by Act 67of 1985, sec. 3 (w.r.e.f.7.11.1985) 4 subs. by Act 34 of 1995, sec. 3 for 'one thousand and six hundred rupees' (w,.r.e.f. 1.4.1993) 5 subs by Act 66 of 1980, sec. 8, for section 13 (w.r.e.f. 21.8.1980)

(20 of 1946), or under the Industrial Disputes Act, 1947 (14 of 1947), or under any other law applicable to the establishment;

(b) he has been on leave with salary or wage;

(c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(d) the employee has been on maternity leave with salary or wage, during the accounting year.

1**[15. Set on and set off of allocable surplus.**— (1) Where for any accounting year, the allocable surplus exceeds the amount of maximum bonus payable to the employees in the

establishment under section 11, then, the excess shall, subject to a limit of twenty per cent. of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilized for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule.

(2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment under section 10, and there is no amount of sufficient amount carried forward and set on under sub-section (1) which could be utilized for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year in the manner illustrated in the Fourth Schedule.

(3) The principle of set on and set off as illustrated in the Fourth Schedule shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Act.

(4) Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.]

16. Special provisions with respect to certain establishment— [2][(1) Where an establishment newly set up, whether before or after the commencement of this Act, the employees of such establishment shall be entitled to be paid bonus under this Act in accordance with the provisions of sub-section (1A), (1B) and (1C).

(1A) In the first five accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, bonus shall be payable only in respect of the accounting year in which the employer derives profit from such establishment and such bonus shall be calculated in accordance with the provisions of this act in relation to that year, but with out applying the provisions of section 15.

[1] Subs. by Act 66 of 1980, sec. 9, for section 13 (w.r.e.f. 21.8.1980)

[2] Subs. by Act 23 of 1976, sec. 10, for sub-section (1) and Explanation thereto (w.r.e.f. 25.9.1975)

(1B) For the sixth and seventh accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 15 shall apply subject other following modifications, namely:--

(i) for the sixth accounting year --

set on or set off, as the case may be, shall be made in the manner illustrated in the [1][Fourth Schedule] taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth and sixth accounting years;

(ii) for the seventh accounting year --

set on or set off, as the case may be, shall be made in the manner illustrated in the [1][Fourth Schedule] taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth, sixth and seventh accounting year.

(1C) From the eighth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be,

from such establishment, the provisions of section 15 shall apply in relation to such establishment as they apply in relation to any other establishment.

Explanation I. – For the purpose of sub-section (1), an establishment shall not be newly set up merely by reason of a change in its location, management, name or ownership.

Explanation II. -- For the purpose of sub-section (1A), an employer shall not be deemed to have derived profit in any accounting year unless –

(a) he has made provision for that year's depreciation to which he is entitled under the Income-tax Act or, as the case may be, under the agricultural income-tax, law; and

(b) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against his profits.

Explanation III. – For the purpose of sub-section (1A), (1B) and (1C), sale of the goods produced or manufactured during the course of the trial running of any factory or of the prospecting stage of any mine or an oil field shall not be taken into consideration and where any question arises with regard to such production or manufacture, the decision of the appropriate Government, made after giving the parties a reasonable opportunity of representing the case, shall be final and shall not be called in question by any court or other authority.]

1 Subs. by Act 66 of 1980, sec. 10, for "Third Schedule" (w.r.e.f. 21.8.1980)

(2) The provisions of 1[sub-section (1), (1A), (1B) and (1C)] shall, so far as may be, apply to new departments or undertakings or branches set up by existing establishments:

Provided that if an employer in relation to an existing establishment consisting of different (departments or undertakings or branches (whether or not in the same industry) set up at different periods has, before the 29th May, 1965, been paying bonus to the employees of all; such departments or undertakings or branches, irrespective of the date on which such departments or undertakings or branches were set up, on the basis of the consolidated profits computed in respect of all such departments or undertaking or branches, then, such employer shall be liable to pay bonus in accordance with the provisions of this Act to the employees of all such departments or undertaking or branches (whether set up before or after that date) on the basis of the consolidated profits computed as aforesaid.

17. Adjustment of customary or interim bonus against bonus payable under the Act.—Whether in any accounting year --

(a) an employer has paid any puja bonus or other customary bonus to an employee; or

(b) an employer has paid a part of the bonus payable under this Act to an employee before the date on which such bonus becomes payable.

then, the employer shall be entitled to deduct the amount of bonus so paid from the amount of bonus payable by him to the employee under this Act in respect of that accounting year and the employee shall be entitled to receive only the balance.

18. Deduction of certain amounts from bonus payable under the Act. – Where in any accounting year, an employee is found guilty of misconduct causing financial loss to the employer, then, it shall be lawful for the employer to deduct the amount of loss from the amount of bonus payable by him to the employee under this Act in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.

19. Time-limit for payment of bonus. – [2][All amounts] payable to an employee by way of bonus under this Act shall be paid in cash by his employer --

(a) where there is a dispute regarding payment of bonus pending before any authority under section 22, within a month from the date on which the award becomes enforceable or the settlement comes into operation, in respect of such dispute;

(b) in any other case, within a period of eight months from the close of the accounting year:

[1] Subs by Act 23 of 1976, sec. 12, for "sub-section (1) " (w.r.e.f. 25.9.1975)

[2] subs. by Act 23 of 1976, sec. 13, for "(1) subject to the provisions of this section, all amounts : (w.r.e.f. 25.9.1975)

Provided that the appropriate Government or such authority as the appropriate Government may specify in this behalf may, upon an application made to it by the employer and for sufficient reasons, by order, extended the said period of eight months to such further period or periods as it thinks fit; so, however, that the total period so extended shall not in any case exceed two years.

[1][***]

[2][***]

20. Application of Act to establishments in public sector in certain cases.- [3][(1)] If in any accounting year an establishment in public sector sells any goods produced or manufactured by it or renders any services, in competition with an establishment in private sector, and the income from such sale or services or both less than twenty percent of the gross income of the establishment in public sector for that year, then, the provision of this Act shall apply in relation to such establishment in public sector as they apply in relation to a like establishment in private sector.

[4][(2) Save as otherwise provided in sub-section (1), nothing in this Act shall apply to the employees employed by any establishment in public sector]

21. Recovery of bonus due from an employer.- Where any money is due to an employee by way of bonus from his employer under a settlement or an award or agreement, the employee himself or any other person authorised by him in writing in this behalf, or in the case of the death of the employee, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government or such authority as the appropriate Government may specify in this behalf is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrears of land revenue.

Provided that every such application shall be made within one year from the date on which the money became due to the employee from the employer.

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

Explanation- In this section andin [5][sections 22,23, 24 and 25], "employee" includes a person who is entitled to the payment of bonus under this Act but who is no longer in employment.

[1] Sub-sections (2) to (7) ins. by Act 68 of 1972, sec. 4 (w.r.e.f. 1.9.1972) and omitted by Act 23 of 1976, sec. 13 (w.r.e.f. 25.9.1975)

[2] Sub-section (8) ins. by Act 39 of 1973, sec. 4(w.r.e.f. 1.9.1973) and omitted by Act 55 of 1973, sec. 2 (w.r.e.f 1.9.1973)

[3] The brackets and figure (1) omitted by Act 23 of 1976, sec. 14 (w.r.e.f. 25.9.1975) and again section 20 re-numbered as sub-section (1) thereof by Act 66 of 1980, sec. 11 (w.r.e.f. 27.12.1980) [4] sub-section (2) omitted by Act of 1976, sec, 14(w.r.e.f. 25.9.1975) and ins. by Act 66 of 1980, sec.

11 (w.r.e.f. 27.12.1980)

5 Subs. By Act 66 of 1980, sec. 12, for "sections 22,23 and 25" (w.r.e.f. 21.8.1980)

22. Reference of disputes under the Act.- Where any dispute arises between an employer and his employees with respect to the bonus payable under this Act or with respect to the application of this Act to an establishment in public sector, then, such dispute shall be deemed to be an industries dispute within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), or of any corresponding law relating to investigation and settlement of industrial disputes in force in a State and the provisions of that Act or, as the case may be, such law, shall, save as otherwise expressly provided, apply accordingly.

23. Presumption about accuracy of balance-sheet and profit and loss account of corporation and companies.- Where, during the course of proceedings before any arbitrator or Tribunal under the Industrial Disputes Act, 1947 (14 of 1947) or under any corresponding law relating to investigation and settlement of industrial disputes in force in a State (hereinafter in this section 1[and in 2[sections 24 and 25] referred to as the "said authority") to which any dispute of the nature specified in section 22 has been referred, the balance-sheet and the profit and loss account of an employer, being a corporation or a company (other than a banking company), duly audited by the comptroller and Auditor-General of India or by auditors duly qualified to Act as auditors of companies under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956), are produced before it, then, the said authority may presume the statements and particulars contained in such balance-sheet and profit and loss account to be accurate and it shall not be necessary for the corporation or the company to prove the accuracy of such statements and particulars by the filing of an affidavit or by any other mode.

Provided that where the said authority is satisfied that the statement and particulars contained in the balance-sheet or the profit and loss account of the corporation or the company are not accurate, it may take such steps as it thinks necessary to find our the accuracy of such statement and particulars.

(2) When an application is made to the said authority by any trade union being a party to the dispute or where there is no trade union, by the employees being a party to the dispute requiring any clarification relating to any item in the balance-sheet or the profit and loss account it may, after satisfying itself that such clarification is necessary, by order, direct the corporation or, as the case may be, the company, to furnish to the trade union or the employees such clarification within such time as may be specified in the direction and the corporation or , as the case may be, the company, shall comply with such direction.

3**[24. Audited accounts of banking companies not to be questioned**. –(1) Where any dispute of the nature specified in section 22 between an employer , being a banking company, and its employees has been referred to the said authority under that section and during the course of proceedings the accounts of the banking company duly audited and produced before it, the said authority shall not permit any trade union or employees to question the correctness of such

1 Subs. by Act 23 of 1976 , Sec. 16, for "and in sections 24 and 25" (w.r.e.f. 25.9.1975). 2 Subs. by Act 66 of 1980, sec. 13, for "section 25" (w.r.e.f. 21.8.1980)

3 Ins. by Act 66 of 1980 , sec. 14 (w.r.e.f. 21.8.1980)

accounts , but the trade union or employees to question the correctness of such accounts, but the trade union or employees may be permitted to obtain from the banking company such information as is necessary for verifying the amount of bonus due under this Act.

(2) Nothing contained in sub-section (1) shall enable trade union of the employees to obtain any information which the banking company is not compelled to furnish under the provisions of section 34A of the Banking Regulation Act, 1949 (10 of 1949)].

25. Audit of accounts of employers, not being corporations or companies.- (1) Where any dispute of the nature specified in section 22 between an employer, not being a corporation or a company, and his employees has been referred to the said authority under that section and the accounts of such employer audited by any auditor duly qualified to act as auditor of companies under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956) , are produced before the said authority, the provisions of section 23, shall , so far as may be, apply to the accounts so audited.

(2) When the said authority finds that the accounts of such employer of such employer have not been audited by any such auditor and it is of opinion that an audit of the accounts of such employer is necessary for deciding the question referred to it, then, it may, by order direct the employer to get his accounts audited within such time as may be specified in the direction or within such further time as it may allow by such auditor or auditors as it thinks fit and thereupon the employer shall comply with such direction.

(3) Where an employer fails to get the accounts audited under sub-section (2) the said authority may, without prejudice to the provisions of section 28, get the accounts audited by such auditor or auditors as it thinks fit.

(4) When the accounts are audited under sub-section (2) or sub-section (3) the provision of section 23 shall, so far as may be, apply to the accounts so audited.

(5) The expenses of and incidental to, any audit under sub-section (3) (including the remunerating of the auditor or auditors) shall be determined by the said authority (which determination shall be final) and paid by the employer and in default or such payment shall be recoverable from the employer in the manner provided in section 21.

26. Maintenance of register, records, *etc.* – Every employer shall prepare and maintain such registers, records and other documents in such form and in such manner as may prescribed.

27. Inspectors. – (1) The appropriate Government may, by notification on the Official Gazette, appoint such person as it think fit to be Inspectors for the purposes of this Act and may define the limits within which they shall exercise jurisdiction.

(2) An Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act has been complied with -- (a) Require an employer to furnish such information as he may consider necessary;

(b) at any reasonable time and with such assistance, if any, as he thinks fit enter any establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of salary or wage or bonus in the establishment;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been an employee in the establishment;

(d) make copies of, or take extracts from, any book, register or other document maintained in relation to the establishment;

(e) exercise such other powers as may prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian penal Code (45 of 1860).

(4) Any person required to produce any accounts, book, register or other documents or to give information by an Inspector under sub-section (1) shall be legally bound to do so.

[1][(5) Nothing contained in this section shall enable an Inspector to require a banking company to furnish or disclose any statement or information or to produce, or give inspection of any its books of account or other documents which a banking company cannot be compelled to furnish, disclose, produce or give inspection of, under the provision of section 34A of the Banking Regulation Act, 1949 (10 of 1949).

28. Penalty.- if any person-

(a) contravenes any of the provision of this Act or any rule made thereunder, or

(b) to whom a direction is given or a requisition is made under this Act fails to comply with the direction or requisition,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. Offences by companies.- (1)If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

[1] Ins. by Act 66 of 1980, sec. 15 (w.r.e.f. 21.8.1980)

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all; due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. – For the purposes of this section, --

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

30. Cognizance of offences. – (1) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the appropriate Government [1][or an officer of that Government (not below the rank of a Regional Labour Commissioner in the case of an officer of the Central Government, and not below the rank of a Labour Commissioner in the case of an officer of the State Government) specially authorised in this behalf by that Government].

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

31. Protection of action taken under the Act. – No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

[2]**[31A. Special provision with respect to payment of bonus linked with production or productivity.** – Notwithstanding anything contained in this Act,-- (i) where an

agreement or a settlement has been entered into by the employees with their employer before the commencement of the Payment of Bonus (Amendment) Act, 1976 (23 of 1976), or

(ii) where the employees enter into any agreement or settlement with their employer after such commencement, for payment of an annual bonus linked with production or productivity in lieu of bonus based on profits payable under this Act, then, such employees shall be entitled to receive bonus due to them under such agreement or settlement, as the case may be:

1 Ins. by Act 66 of 1980, sec. 16 (w.r.e.f. 21.8.1980)
2 Ins. by Act 23 of 1976, sec. 19 (w.r.e.f. 25.9.1975)

1[Provided that any such agreement or settlement whereby the employees relinquish their right to receive the minimum bonus under section 10 shall be null and void in so far as it purports to deprive them of such right:]

2[Provided further that] such employees shall not be entitled to be paid such bonus in excess of twenty per cent. of the salary or wage earned by them during the relevant accounting year.

32. Act not to apply to certain classes of employees. – Nothing in this Act shall apply to --

(i) 3[***] employees employed by any insurer carrying on general insurance business and the employees employed by the Life Insurance Corporation of India;

(ii) seamen as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958);

(iii) employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), and employed by registered or listed employers;

(iv) employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a Local authority;

(v) employees employed by --

(a) the Indian Red Cross Society or any other institution of a like nature (including its branches);

(b) universities and other educational institutions;

(c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit;

(vi) employees employed through contractor on building operations;

4[***]

(viii) employees employed by the Reserve Bank of India;

(ix) employees employed by --

(a) the Industrial Finance Corporation of India;

(b) any Financial Corporation established under section 3, or any Joint Financial Corporation established under section 3A, of the State Financial Corporations Act, 1951 (63 of 1951);

(c) the Deposit Insurance Corporation;

5[(d)the National Bank for Agriculture and Rural Development;]

(e) the Unit Trust of India;

(f) the Industrial Development Bank of India;

1 Ins. by Act 66 of 1980, sec. 17 (w.r.e.f. 21.8.1980)
2 Subs. by Act 66 of 1980, sec. 17, for "Provided that" (w.r.e.f. 21.8.19800

3 the words "employees employed by any insurer carrying on general insurance business and the" omitted by Act 62 of 1968, sec. 41.

4 Clause (vii) omitted by Act 66 of 1980, sec, 18 (w.r.e.f. 21.8.1982)

5 Subs. by Act of 1981, sec. 61 and Sch.II, for sub-clause (d) (w.r.e.f. 12.7.1982)

1[(fa) the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989;]

2[(ff)the National Housing Bank;]

(g) any other financial institution 3[(other than a banking company)], being an establishment in public sector, which the Central Government may, by notification in the Official Gazette, specify, having regard to --

(i) its capital structure;

(ii) its objectives and the nature of its activities;

(iii) the nature and extent of financial assistance or any concession given to it by the Government; and

(iv) any other relevant factor;

4[***]

(xi) employees employed by inland water transport establishment operating on routes passing through any other country.

33. Act to apply to certain pending disputes regarding payment of bonus.-*[Rep. By the Payment of Bonus (Amendment) Act, 1976 (23 of 1976), sec. 21 (w.r.e.f. 25-9-1975).]*

5**[34. Effect of laws and agreements inconsistent with the Act. –** Subject to the provisions of section 31A, the provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in the terms of any award, agreement, settlement or contract of service.]

35. Saving. – Nothing, contained in this Act shall be deemed to affect the provisions of the Coal Mines, Provident Fund and Bonus Schemes Act, 1948 (48 for 1948), or of any scheme made thereunder.

36 Power of exemption. – If the appropriate Government, having regard to the financial position and other relevant circumstances of any establishment or class of establishment, is of opinion that it will not be in public interest to apply all or any of the provisions of this Act thereto, it may, by notification in the Official Gazette, exempt for such period as maybe specified therein and subject to such conditions as it may think fit to impose, such establishment or class of establishment from all or any of the provisions of this Act.

37. Power to remove difficulties. – *[Rep. by the Payment of Bonus (Amendment) Act, 1976 (23 of 1976), sec. 23 (w.r.e.f. 25-9-1975).]*

1 Ins. by Act 39 of 19879, sec. 53 and Sch.II.

2 Omitted by Act 66 of 1980, sec. 18 (w.r.e.f. 21.8.1980) and ins. by Act 53 of 1987, sec. 56 and Sch. II (w.e..f 9.7.1988).

3 Ins. by Act 66 of 1980, sec. 18 (w.r.e.f. 21.8.1980)

4 Clause (x) omitted by Act 23 of 1976, sec. 20 (w.r.e.f 25.9.1975) 5 Subs. by Act 23 of 1976, sec. 22, for section 34 (w.r.e.f. 25.9.1975)

38. Power to make rules. – (1) The Central Government may make rule for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for --

(a) the authority for granting permission under the proviso to sub-clause (iii) of clause (1) of section 2;

(b) the preparation of registers, records and other documents and the form and

manner in which such registers, records and documents may be maintained under section 26;

(c) the powers which may be exercised by an inspector under clause (e) of sub-section (2) of section 27;

(d) any other matter which is to be, or maybe prescribed.

(3) Every rule made under this section 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.

39. Application of certain law not barred. –Save as otherwise expressly provided, the provisions of this Act shall be in addition to and not in derogation of the Industrial Disputes Act, 1947 (14 of 1947), or any corresponding law relating to investigation and settlement of industrial disputes in force in a State.

40. Repeal and saving. – (1) The Payment of Bonus Ordinance, 1965 (3 of 1965), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 29th May, 1965.

[THE FIRST SCHEDULE

[See section 4(a)]

COMPUTATION OF GROSS PROFITS

Accounting year ending……..

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
*1	Net Profit show in the Profit and Loss Account after making usual and necessary provisions.	Rs.	Rs.	See foot-note (1)
2.	Add back provision for: (a) Bonus to employees. (b) Depreciation (c) Development Rebate Reserve. (d) Any other reserves. Total of Item No. 2	Rs.		See foot-note (1)

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
3.	Add back also:	Rs.	Rs.	See foot-note (1)
4.	(a) Bonus paid to employees in respect of previous accounting years.			See foot-note (1)
5.	(b) The amount debited in respect of gratuity paid or payable to employees in excess of the aggregate of –			See foot-note (1)
6.	(i) the amount , if any, paid to, or provided for payment to, an approved gratuity fund; and (ii) the amount actually paid to employees on their retirement or on termination of their employment for any reason.			See foot-note (1)
	(c) Donations in excess of the amount admissible for income- tax.			See foot-note (1)
	(d) Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income-tax).			See foot-note (1)
	(e) Any amount certified by the Reserve Bank of India in terms of sub-section (2) of section 34A of the Banking Regulation Act, 1949 (10 of 1949)			See foot-note (1)
	(f) Loses of, or expenditure relating to, any business situated outside India			
	Total of Item No. 3	Rs.		
	Add also income, profits or gains(if any) credited directly to published or disclosed reserves, other than— (i) capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income-tax); (ii) profits of, and receipts relating to, any business situated outside India; (iii) income of foreign banking companies from	Rs.		

	investment outside India. Net Total of Item No. 4…… Total of Item Nos. 1,2.3 and 4 Deduct: (a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax (b) Profits of, and receipts relating to, any business situated outside India.	Rs.		
Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
	(d) Expenditure or losses (if any debited directly to published or disclosed reserves, other than- (i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax.) (ii) Losses of any business situated outside India. (e) In the case of foreign banking companies proportionate administrative (overhead) expenses of head Office allocable o Indian business. (f) Refund of any excess direct tax paid for previous accounting years and excess provision, if any, of previous accounting years, relating to bonus, depreciation, or development rebate, if written back. (g) Cash subsidy, if any, given by the Government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or though any agency for specified purposes and the proceeds of which are reserved for such purposes. Total of Item No. 6…… 7. Gross Profits for purposes of bonus (Item No. 5 minus Item No. 6)	Rs. Rs. ----------	Rs. ---------- Rs. ----------	See foot-note (1) See foot-note (1) See foot-note (1)

Explanation- In sub-item (b) of item 3, 'approved gratuity fund' has the same meaning assigned to it in clause (5) of section 2 of the Income-Tax Act.

Foot-Note: (1) If, and to the extent charged to Profit and Loss Account.

(2) If, and to the extend, credited to Profit and Loss Account.

(3) In the proportion of India Gross Profit (Item No.7) to Total World Gross Profit (as per Consolidated Profit and Loss Account adjusted as in Item No. 2 above Only).

1**[THE SECOND SCHEDULE]**

2[See section 4(a)]

COMPUTATION OF GROSS PROFITS

Accounting year ending……..

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks

1.	Net Profit as per Profit and Loss Account.	Rs.	Rs.	See foot-note (1)
2.	Add back provision for:	----------		See foot-note (1)
3.	(a) Bonus to employees.	Rs		See foot-note (1)
	(b) Depreciation	----------		See foot-note (1)
	(c) Direct taxes, including the provision (if any) for previous accounting years.			
	3[(d)Development Rebate/Investment allowance/Development Allowance reserve.			
	(d) Any other reserves.			
	Total of Item No. 2			
	Add back also:			
	(a) Bonus paid to employees in respect of previous accounting years.			
	4[(aa)The amount debited in respect of gratuity paid or payable to employees in excess of the aggregate of –			
	(i) the amount , if any, paid to, or provided for payment to, an approved gratuity fund; and			
	(ii) the amount actually paid to employees on their retirement or on termination of their employment for any reason].			
	(b) Donations in excess of the amount admissible for income- tax.			
	(c) Any annuity due, or commuted value of any annuity paid, under the provisions of section 280D of the Income-tax during the accounting year.			
	(d) Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income-tax).	Rs.		
	(e) Losses of, or expenditure relating to, any business situated outside India.			

1 For the heading "THE SECOND SCHEDULE", the heading 'THE FIRST SCHEDULE" subs. by Act 23 of 1976, sec. 26 (w.r.e.f 25.9.1976) and again the First Schedule renumbered as the Second Schedule by Act 66 of 1980, sec. 19 (w.r.e.f 21.8.1980)

2 For the sub-heading "[see Section 4(b)]", the sub-heading "(See section 4)" subs by Act 23 of 1976, sec. 261 (w.r.e.f.25.9.1976) and again subs. by Act 66 of 1980, sec. 19 (w.r.e.f. 21.8.1980). 3 Subs. by Act 66 of 1980, sec. 19, for entry (d) (w.r.e.f. 21.8.1980).

4 Ins. by Act 23 pf 1976, sec. 26 (w.e.r.f 25.9.1975)

Item No.	Particulars	Amount of sub-items	Amount	Remarks
4.	Add also income, profits or gains(if any) credited directly to published or disclosed reserves, other than—			See foot-note (2)
5.	(i) capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income-tax or agricultural Income-Tax); (ii) profits of, and receipts relating to, any business situated outside India;			See foot-note (2)
6.	(iii) income of foreign concerns from investment outside India.	Rs.		See foot-note (2)
		Rs		See foot-note (3)
				See foot-note (2)

	Net Total of Item No. 4…… Total of Item Nos. 1,2.3 and 4 Deduct: (a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax or agricultural income-tax) (b) Profits of, and receipts relating to, any business situated outside India. (c) Income of foreign concerns from investments outside India (d) Expenditure or losses (if any debited directly to published or disclosed reserves, other than- (i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax.) (ii) Losses of any business situated outside India. (e) In the case of foreign banking companies proportionate administrative (overhead) expenses of head Office allocable to Indian business. (f) Refund of any direct tax paid for previous accounting years and excess provision, if any, of previous accounting years, relating to bonus, depreciation, taxation or development rebate or development allowance, if written back. 1[(g) Cash subsidy, if any, given by the Government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or though any agency for specified purposes and the proceeds of which are reserved for such purposes]. (j) Total of Item No. 6……	Rs.		

1 Subs. by Act 23 of 1976, sec. 26, for sub-item (g) (w.e.r.f 225.9.1975).

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
7.	Gross Profits for purposes of bonus (Item No. 5 minus Item No. 6)	---------- Rs. ----------	.	

2[*Explanation*- In sub-item (aa) of item 3, 'approved gratuity fund' has the same meaning assigned to it in clause (5) of section 2 of the Income-Tax Act.]

Foot-Notes: (1) If, and to the extent charged to Profit and Loss Account.

(2) If, and to the extend, credited to Profit and Loss Account.

(3) In the proportion of India Gross Profit (Item No.7) to Total World Gross Profit (as per Consolidated Profit and Loss Account adjusted as in Item No. 2 above only).

3[THE THRID SCHEDULE

[See section 6(d)]

tem No.	Category of employer	Further sums to be deducted
(1)	(2)	(3)

1.	4[Company, other than a banking company]	(i) The dividends payable on its preference share capital for the accounting year calculated at the actual rate at which such dividends are payable; (ii) 8.5 per cent of its paid up equity share capital as at the commencement of the accounting year; (iii) 6 per cent of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year. Provided that where the employer is a foreign company within the meaning of section 591 of the Companies Act, 1956 (1 of 1956), the total amount to be deducted under this Item shall be 8.5 per cent on the aggregate of the value of the net fixed assets and the current assets of their company in India after deducting the amount of its current liabilities (other than any amount shown as payable by the company to its Head Office whether towards any advance made by the Head Office or otherwise or any interest paid by the company to its Head Office) in India.

2 Ins. by Act 23 of 1976, sec. 26. (w.r.e.f 25.9.1976)

3 For the heading " THE THIRD SCHEDULE" THE HEADING " THE SECOND SCHEDULE" subs. by Act 23 of 1976, sec. 27 (w.r.e.f. 12.8.1980)

4 Subs by Act 66 of 1980, sec. 20, for " Company" (w.r.e.f. 21.8.1980)

1	2	3

[1][2	Banking company	(i) The dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable; (ii) 7.5 per cent of its paid up equity share capital as at the commencement of the accounting year; (iii) 5 per cent of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year. (iv) any sum which in respect of the accounting year, is transferred by it- (a) to a reserve fund under sub-section (1) of section 17 of the Banking Regulation Act, 1949 (10 of 1949); or (b) to any reserves in India in pursuance of any direction or advise given by the Reserve bank of India. Whichever is higher: Provided that where the banking company is a foreign company within the meaning of section 591 of the Companies Act, 1956 (1 of 1956), the amount to be deducted under this Item shall be aggregate of- (i) the dividends payable on its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same proportion to its total preference share capital as its total working funds in India bear to its total world working funds. ; ii) 7.5 per cent of such amount as bears the same proportion to its total paid up equity share capital as its total working funds in India bear to its total working funds in India bear to its total world working funds; (iii) 5 per cent of such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total world working funds; (iv) any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under

[1] Ins. by Act 66 of 1980, sec. 20 (w.r.e.f 231.8.1980)

1	2	3

3. 4. 5.	Corporation Co-operative society Any other employer not falling under any of the aforesaid categories.	(i) 8.5 percent, of its paid up capital as at the commencement of the accounting year. (ii) 6 per cent, of its reserves, if any, shown in its balance sheet as at the commencement of the accounting, year including any profits carried forward from the previous accounting year. (i) 8.5 per cent, of the capital invested by such society in its establishment as evidenced from its books of accounts at the commencement of the accounting year; (ii) such sum as has been carried forward in respect of the accounting year to a reserve fund under any law relating to co-operative societies for the time being in force. 8.5 per cent, of the capital invested by him in his establishment as evidence from his books of accounts at the commencement of the accounting year. Provided that where such employer is a person to whom Chapter XXIIA of the Income-tax Act applies, the annuity deposit payable by him under the provisions of that Chapter during the accounting year shall also be deducted. Provided further that where such employer is a firm, an amount equal to 25 per cent, of the gross profits derived by it from the establishment in respect of the accounting year after deducting depreciation in accordance with the provision of clause (a) of section 6 by way of remuneration to all the partners taking part in the conduct of business of the establishment shall also be deducted, but where the partnership agreement, whether oral or written, provides for the payment of remuneration to any such partner, and – (i) the total remuneration payable to all such partners is less than the said 25 per cent the amount payable, subject to a maximum of forty-eight thousand rupees to each such partner; or (ii) the total remuneration payable to all such partners is higher than the said 25 per cent such percentage, or a sum calculated at the rate of forty-eight thousand rupees to each such partner, whichever is less, shall be deducted under this proviso; Provided also that where such employer is an individual or a Hindu undivided family- (i) an amount equal to 25 percent of the gross profits derived by such employer from the establishment in respect of the accounting year after deducting depreciation in accordance with the provisions of clause (a) of section 6; or (ii) forty-eight thousand rupees; whichever is less
(1)	(2)	(3)
6.	Any employer failing under Item No. 1 or Item No. 3 or Item No. 4 or Item No. 5 and being a license within the meaning of the Electricity (Supply) Act, 1948 (54 of	In addition to the sums deductible under any of the aforesaid Items, such sums as are required to be appropriate by the license in respect of the accounting year to a reserve under the Sixth Schedule to that Act shall also be deducted.

Explanation: The expression 'reserves" occurring in column (3) against item Nos.1 [1(iii), 2(iii) and 3(ii)] shall not include any amount set apart for the purpose of-

(i) Payment of any direct tax which, according to the balance –sheet, would be payable; (ii) meeting any depreciation admissible in accordance with the provisions of clause(a) of

section 6;

(iii) payment of dividends which have been declared.; but shall include-

(a) any amount, over and above the amount referred to in clause(i) of this Explanation.

(b) any amount set apart for meeting any depreciation in excess of the amount admissible in accordance with the provisions of clause (a) of section 6.

[2][THE FOURTH SCHEDULE

(See section 15 and 16)

In the Schedule, the total amount of bonus equal to 8.33 per cent of the annual salary or wage payable to all the employees is assumed to be Rs. 1,04,167. Accordingly, the maximum bonus to which all the employees are entitled to the paid (twenty per cent of the annual salary or wage of all the employees) would be Rs. 2,50,000.

[1] Subs. by Act 66 of 1980, sec. 20, for " 1(iii) and 3(ii)" (w.r.e.f 21.8.1980)

[2] "THE FOURTH SCHEDULE " was subs. by "THE THIRD SCHEDULE" BY Act 23 of 1976, sec. 23 (w.r.e.f. 25.9.1976) and THE THIRD SCHEDULE so substituted was again subs. by Act 66 of 1980, sec. 21 (w.r.e.f. 21.8.1980)

Year	Amount equal to sixty per cent, or sixty seven per cent, as the case may be, or available surplus allocable as bonus	Amount payable as bonus	Set on or set off of the year carried forward	Total set on or set off Carried forward
(1)	(2)	(3)	(4)	(5)
	Rs.	Rs.	Rs.	Rs. of (year)
1.	1,04,167	1.04,167**	Nil	NIl
2.	6.35,000	2,50,000*	Set on 2,50,000*	Set on 2,50,000* (2)
3.	2,20,000	2,50,000* (inclusive of 30,000 from year –2)	Nil	Set on (2) 2,20,000
4.	3,75,000	2,50,000*	Set on 1,25,000*	Set on 2,20,000 (2) 1,25,000 (4)
5.	1,40,000	2,50,000* (inclusive of 1,10,000 from year-2)	Nil	Set on (2) 1,10,000 1,25,000 (4)
6.	3,10,000	2,50,000*	Set on 60,000	Set on Nil+ (2) 1,25,00 (4) 60,000 (6)
7.	1,00,000	2,50,000* (inclusive of 1,25,000 from year–4 and 25,000 from year-6)	Nil	Set on 35,000 (6)
8.	Nil (due to loss)	1,04,167** (inclusive of 35,000	Set off 69,167	Set off 69,167 (8)
9.	10,000	1,04,167**	Set off 94,167	Set off 69,167 (8) 94,167 (9)
10.	2,15,000	1,04,167** (after setting of 69,167 from year-8 and 41,666 from year-9)	Nil	Set off 52,501 (9)

Notes-

* Maximum.

+ The balance of Rs. 1,10,000 set on from year-2 lapses.