

Finance Act 1994

Section 16 - Insertion of New Sections 44ad and 44ae

In the Income-tax Act, before section 44B, the following sections shall be inserted, namely :-

'44AD. Special provision for computing profits and gains of business of civil construction, etc. -

(1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in the business of civil construction or supply of labour for civil construction, a sum equal to eight per cent. of the gross receipts paid or payable to the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" :

Provided that nothing contained in this sub-section shall apply in case the aforesaid gross receipts paid or payable exceed an amount of forty lakh rupees.

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deemed under those sections shall be allowed.

(3) The written down value of any asset for the purposes of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of sections 44 and 44AB shall not apply insofar as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

(5) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business are lower than the profits and gains specified in sub-section (1), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.

Explanation : For the purposes of this section, the expression "civil construction" includes -

(a) the construction or repair of any building, bridge, dam or other structure or of any canal or road;

(b) the execution of any works contract.

44AE. Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages. -

(1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee, who owns not more than ten goods carriages and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of sub-section (2).

(2) For the purposes of sub-section (1), the profits and gains from each goods carriage, -

(i) being a heavy goods vehicle, shall be an amount equal to two thousand rupees for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or, as the case may be, an amount higher than the aforesaid amount as declared by him in his return of income;

(ii) other than a heavy goods vehicle, shall be an amount equal to one thousand eight hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or, as the case may be, an amount higher than the aforesaid amount as declared by him in his return of income.

(3) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

(4) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(5) The provisions of sections 44 and 44AB shall not apply insofar as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

(6) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business are lower than the profits and gains specified in sub-sections (1) and (2), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.

Explanation : For the purposes of this section, -

(a) the expressions "goods carriage" and "heavy goods vehicle" shall have the meanings respectively assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(b) an assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.'.