Finance Act, 1992

Section 35 - Amendment of Section 64

In section 64 of the Income-tax Act, with effect from the 1st day of April, 1993, -

(a) in sub-section (1), -

(i) clause (i) shall be omitted;

(ii) clauses (iii) and (v) shall be omitted;

(iii) in clause (iv), the words, brackets and figure "in a case not falling under clause (i) of this sub-section" shall be omitted;

(iv) in clause (vi), the words "or son's minor child,", wherever they occur, shall be omitted;

(v) in clause (vii), the words "or minor child or both" shall be omitted;

(vi) in clause (viii), the words "or son's minor child or both" shall be omitted;

(vii) for Explanations 1 and 1A, the following Explanation shall be substituted, namely :-

"Explanation 1 : For the purposes of clause (ii), the individual in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary so to do.";

(viii) Explanation 2A shall be omitted;

(ix) for Explanation 3, the following Explanation shall be substituted, namely :-

'Explanation 3 : For the purposes of clauses (iv) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or son's wife (hereafter in this Explanation referred to as "the transferee") are invested by the transferee, -

(i) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day;

(ii) in the nature of contribution of capital as a partner in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value on investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day,

shall be included in the total income of the individual in that previous year.';

(b) after sub-section (1), the following sub-section shall be inserted, namely :-

"(1A) In computing the total income of any individual, there shall be included all such income as arises or accrues to his minor child :

Provided that nothing contained in this sub-section shall apply in respect of such income as arises or accrues to the minor child on account of any -

(a) manual work done by him; or

(b) activity involving application of his skill, talent or specialised knowledge and experience.

Explanation : For the purposes of this sub-section, the income of the minor child shall be included, -

(a) where the marriage of his parents subsists, in the income of that parent whose total income (excluding the income includible under this sub-section) is greater; or

(b) where the marriage of his parents does not subsist, in the income of that parent who maintains the minor child in the previous year,

and where any such income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.";

(c) in sub-section (2), the words "or minor child", wherever they occur, shall be omitted.