

Finance Act, 1981

Section 3 - Insertion of New Section 10a

After section 10 of the Income-tax Act, the following section shall be inserted, namely :-

'10A. Special provision in respect of newly established industrial undertakings in free trade zones. (1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking to which this section applies shall not be included in the total income of the assessee.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely :-

(i) it has begun or begins to manufacture or produce articles or things during the previous year relevant to the assessment year commencing on or after the 1st day of April, 1981 in any free trade zone;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation : The provisions of Explanation 1 and Explanation 2 to sub-section (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things (such assessment year being hereafter in this section referred to as the initial assessment year) and each of the four assessment years immediately succeeding the initial assessment year.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year relevant to any subsequent assessment year, -

(i) section 32, section 32A, section 33, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) of section 74 and no deficiency referred to in sub-section (3) of section 80J, in so far as such loss or deficiency relates to the business of the industrial undertaking, shall be carried forward or set off where such loss, or, as the case may be, deficiency relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80J in relation to the profits and gains of the industrial undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) Where an industrial undertaking in any free trade zone has begun to manufacture or produce articles or things in any previous year relevant to the assessment year commencing on or after the 1st day of April, 1977 but before the 1st day of April, 1981, the assessee may, at his option, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for the assessment year commencing on the 1st day of April, 1981 furnish to the Income-tax Officer a declaration in writing that the provisions of sub-section (1) may be made applicable to him for each of the relevant assessment years as reduced by the number of assessment years which expired before the 1st day of April, 1981 and if he does so, then, the provisions of sub-section (1) shall apply to him for each of such relevant assessment years and the provisions of sub-section (4) shall also apply in computing the total income of the assessee for the assessment year immediately succeeding the last of the relevant assessment years and any subsequent assessment year.

(6) the provisions of sub-section (8) and sub-section (9) of section 80-I shall, so far as may be, apply in relation to the industrial undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-I.

(7) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for the initial assessment year, furnishes to the Income-tax Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

Explanation : For the purposes of this section, -

(i) "free trade zone" means the Kandla Free Trade Zone and the Santacruz Electronics Export Processing Zone and

includes any other free trade zone which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(ii) "relevant assessment years" means the initial assessment year and four assessment year immediately succeeding the initial assessment year.'
