

Finance Act, 1981

Section 36 - Insertion of New Section 7a to 7d

In the Companies (Profits) Surtax Act, after section 7, the following section shall be inserted, namely :-

'7A. Advance payment of surtax. (1) In this section, -

(a) "chargeable amount", in relation to any previous year, means so much of the chargeable profits of the previous year as exceed the statutory deduction;

(b) "current chargeable amount", in relation to the advance surtax payable by a company during any financial year, means the chargeable amount of the company of the period which would be the previous year for the assessment year immediately following that financial year.

(2) Surtax shall be payable, in accordance with the provisions of this section, in advance during the financial year in respect of the chargeable amount of the period which would be the previous year for the immediately following assessment year.

(3) the amount of advance surtax payable by an assessee in the financial year shall be computed as follows :-

(a) the chargeable amount of the latest previous year in respect of which the assessee has been assessed by way of regular assessment shall first be ascertained;

(b) in a case where the chargeable amount of the latest previous year [being a year later than the previous year referred to in clause (a)] on the basis of which a provisional assessment has been made under section 7 exceeds the chargeable amount referred to in clause (a), the chargeable amount referred to in clause (a) shall be substituted by the chargeable amount on the basis of which such provisional assessment has been made;

(c) surtax shall be calculated on the chargeable amount referred to in clause (a) or, as the case may be, in clause (b), at the rates specified in the Third Schedule.

(4) Subject to the provisions of this section, advance surtax shall be payable in three equal instalments on the following dates during the financial year, namely :-

(a) the 15th day of June, the 15th day of September and the 15th day of December, in the case of an assessee whose chargeable amount to the extent of 75 per cent. thereof or more is derived from a source or sources for which the previous year (relevant to the assessment year next following the financial year aforesaid) ends on or before the 31st day of December;

(b) the 15th day of September, the 15th day of December and the 15th day of March, in any other case :

Provided that were, in respect of any class of assessee, the Board has, in exercise of the powers conferred by the proviso to sub-section (1) of section 211 of the Income-tax Act, authorised the payment of the last instalment of advance tax on the 15th day of March during the financial year instead of on the 15th day of December, the last instalment of

advance surtax in the case of such assessee shall also be payable on the 15th day of March during the financial year.

(5) Every company shall, in each financial year, on or before the date on which the first instalment, or where it has not previously been assessed by way of regular assessment under this Act, on or before the date on which the last instalment, of advance surtax is due in its case under sub-section (4), if it is likely to have any current chargeable amount, send to the Income-tax Officer, -

(a) where it has been previously assessed by way of regular assessment under this Act, a statement of advance surtax payable by it computed in the manner laid down in sub-section (3), or

(b) where it has not previously been assessed by way of regular assessment under this Act, an estimate of -

(i) the current chargeable amount, and

(ii) the advance surtax payable by it on the amount specified in (i) above calculated in the manner laid down in sub-section (3), and shall pay such amount of advance surtax, -

(I) in a case falling under clause (a), as accords with the statement in equal instalments on the dates applicable in its case under sub-section (4); and

(II) in a case falling under clause (b), as accords with the estimate in equal instalments on such of the dates applicable in its case as have not expired, or in one sum if only the last of such dates has not expired.

(6) Where a company which is required to send a statement under clause (a) so sub-section (5) estimates on or before the date on which the first instalment of advance surtax is due in its case under sub-section (4) that, by reason of its current chargeable amount being likely to be less than the chargeable amount on which advance surtax is payable by it under sub-section (5) or for any other reason, the amount of advance surtax computed in the manner laid down in sub-section (3) on the current chargeable amount would be less than the amount of advance surtax payable by it under sub-section (5), it may send to the Income-tax Officer, in lieu of such statement, an estimate of -

(i) the current chargeable amount, and

(ii) the advance surtax payable by it on the current chargeable amount calculated in the manner laid down in sub-section (3),

and shall pay such amount of advance surtax as accords with its estimate in equal instalments on the dates applicable in its case under sub-section (4).

(7) Where a company which has sent a statement under clause (a) of sub-section (5) estimates on or before the date on which the last instalment of advance surtax is due in its case that, by reason of its current chargeable amount being likely to be less than the chargeable amount on which advance surtax is payable by it under sub-section (5) or for any other reason, the amount of advance surtax computed in the manner laid down in sub-section (3) on the current chargeable amount would be less than the amount of advance surtax payable by it under sub-section (5), it may, at its option, send to the Income-tax Officer an estimate of -

(i) the current chargeable amount, and

(ii) the advance surtax payable by it on the current chargeable amount calculated in the manner laid down in sub-section (3), and shall pay such amount of advance surtax as accords with its estimate in equal instalments on such of the date applicable in its case under sub-section (4) as have not expired, or in one sum if only the last of such dates has not expired.

(8) In the case of any company which is liable to pay advance surtax under sub-section (5) or sub-section (6) or, as the case may be, sub-section (7), if, by reason of the current chargeable amount being likely to be greater than the chargeable amount on which the advance surtax so payable by it has been computed or for any other reason, the amount of advance surtax computed in the manner laid down in sub-section (3) on the current chargeable amount (which shall be estimated by the company) exceeds the amount of advance surtax so payable by it by more than twenty per cent. of the latter amount, it shall, on or before the date on which the last instalment of advance surtax is payable by it, send to the Income-tax Officer an estimate of -

(i) the current chargeable amount, and

(ii) the advance surtax payable by it on the current chargeable amount calculated in the manner laid down in sub-section (3),

and shall pay such amount of advance surtax as accords with its estimate on such of the dates applicable in its case under sub-section (4) as have not expired, by instalments which may be revised according to sub-section (9) :

Provided that where in respect of any company the Commissioner has, in exercise of the powers conferred by the first proviso to sub-section (4) of section 209A, or the first proviso to sub-section (3A) of section 212, of the Income-tax Act, extended the date for furnishing the estimate referred to in the said sub-section (4) or, as the case may be, the said sub-section (3A) and the company has paid the advance surtax which it is liable to pay under sub-section (5) or sub-section (6) or, as the case may be, sub-section (7) on or before the date on which the last instalment of advance surtax is due in its case, the company shall pay, on or before the date as so extended, the amount by which the advance surtax already paid by it falls short of the advance surtax payable in accordance with its estimate.

(9) The company may send a revised estimate of the advance surtax payable by it on or before any one of the dates specified in sub-section (4) and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(10) Every statement or estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.

7B. Interest payable by Government.-- The Central Government shall pay simple interest at twelve per cent. per annum on the amount by which the Aggregate sum of any instalments of advance tax paid during any financial year in which they are payable under section 7A exceeds the amount of the tax determined on regular assessment, from the 1st day of April next following the said financial year to the date of the regular assessment for the assessment year immediately following the said financial year.

7C. Interest payable by assessee.-- (1) Where, in any financial year, a company has paid advance surtax under section 7A on the basis of its own estimate (including revised estimate), and the advance surtax so paid is less than eighty-three and one-third per cent. of the assessed surtax, simple interest at the rate of twelve per cent. per annum from the 1st day of April next following the said financial year up to the date of the regular assessment shall be payable by the company upon the amount by which the advance surtax so paid falls short of the assessed surtax.

(2) Where, on making the regular assessment, the Income-tax Officer finds -

(a) that any such company as is referred to in clause (a) of sub-section (5) of section 7A has not sent the statement referred to in that clause or the estimate in lieu of such statement referred to in sub-section (6) of that section; or

(b) that any such company as is referred to in clause (b) of sub-section (5) of section 7A has not sent the estimate referred to in that clause,

simple interest at the rate of twelve per cent. per annum from the 1st day of April next following the financial year in which the advance surtax was payable in accordance with the said sub-section (5) or sub-section (6) up to the date of the regular assessment shall be payable by the company upon the amount equal to the assessed surtax.

(3) Where, on making the regular assessment, the Income-tax Officer finds that any company which is required to send an estimate under sub-section (8) of section 7A has not sent the estimate referred to therein, simple interest at the rate of twelve per cent. per annum for the 1st day of April next following the financial year in which the advance surtax was payable in accordance with the said sub-section (8) up to the date of the regular assessment shall be payable by the company upon the amount by which the advance surtax paid by it falls short of the assessed surtax.

(4) Notwithstanding anything contained in the foregoing sub-sections, where provisional assessment is made under section 7 -

(i) interest shall be calculated in accordance with the provisions of sub-section (1) or sub-section (2) or, as the case may be, sub-section (3) up to the date on which the surtax provisionally assessed is paid; and

(ii) thereafter interest shall be calculated at the rate of twelve per cent. per annum on the amount by which the surtax provisionally assessed falls short of the assessed surtax.

(5) In such cases and under such circumstances as may be prescribed, the Income-tax Officer may reduce or waive the interest payable by the company under this section.

(6) Where, as a result of an order under section 11, or section 12, or section 13, or section 17, or section 18 read with section 260 or section 262 of the Income-tax Act, the amount on which interest was payable under this section has been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

(7) In this section and section 9A, "assessed surtax" means the surtax determined on the basis of the regular assessment without making any deduction therefrom.

7D. Interest payable by assessee in case of underestimate, etc. Where, on making the regular assessment, the Income-tax Officer finds that any company Has under section 7A underestimated the advance surtax payable by it and thereby reduced the amount payable in either of the first two instalments, he may direct that the company shall pay simple interest at twelve per cent. per annum for the period during which the payment was deficient, on the difference between the amount paid in each such instalment and the amount which should have been paid, having regard to the aggregate advance surtax actually paid during the year.

Explanation : For the purposes of this section, any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months.'
