Finance Act, 1984

Section 10 - Amendment of Section 40a

In section 40A of the Income-tax Act, -

(a) in sub-section (5), with effect from the 1st day of April, 1985, -

(1) in clause (a), in the first proviso, for the words "seventy-two thousand rupees", the words "one hundred and two thousand rupees" shall be substituted;

(2) in clause (c), in sub-clause (i), -

(i) for the words "five thousand rupees", the words "seven thousand five hundred rupees" shall be substituted;

(ii) for the words "sixty thousand rupees" the words "ninety thousand rupees" shall be substituted;

(iii) after the proviso, the following proviso shall be inserted, namely :-

'Provided further that in relation to any month or part thereof comprised in any such previous year as is relevant to the assessment year commencing on the 1st day of April, 1985, or any subsequent assessment year, the reference to "five thousand rupees" in the preceding proviso shall be construed as a reference to "seven thousand five hundred rupees".';

(b) in sub-section (6), for the words "sixty thousand rupees", the words "ninety thousand rupees" shall be substituted with effect from the 1st day of April, 1985;

(c) after sub-section (8), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1980, namely :-

"(9) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards the setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860 (21 of 1860) or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under clause (iv) or clause (v) of sub-section (1) of section 36 or, as required by or under any other law for the time being in force.

(10) Notwithstanding anything contained in sub-section (9), where the Income-tax Officer is satisfied that the fund, trust, company, association of persons, body of individuals, society or other institution referred to in that sub-section has before the 1st day of March, 1984, bona fide laid out or expended any expenditure (not being in the nature of capital expenditure) wholly and exclusively for the welfare of the employees of the assessee referred to in sub-section (9) out of the sum referred to in that sub-section, the amount of such expenditure shall, in case no deduction has been allowed to the assessee in respect of such sum and subject to the other provisions of this Act, be deducted in computing the income referred to in section 28 of the assessee of the previous year in which such expenditure is so laid out or expended, as if such expenditure had been laid out or expended by the assessee.

(11) Where the assessee has, before the 1st day of March, 1984, paid any sum to any fund, trust, company, association of persons, body of individuals, society or other institution referred to in sub-section (9), then, notwithstanding anything contained in any other law or in any instrument, he shall be entitled -

(i) to claim that so much of the amount paid by him as has not been laid out or expended by such fund, trust, company, association of persons, body of individuals, society or other institution (such amount being hereinafter referred to as the unutilised amount be repaid to him, and where any claim is so made, the untilised amount shall be repaid, as soon as may be, to him;

(ii) to claim that any asset, being land, building, machinery, plant or furniture acquired or constructed by the fund, trust, company, association of persons, body of individuals, society or other institution out of the sum paid by the assessee, be transferred to him, and where any claim is so made, such asset shall be transferred, as soon as may be, to him.".