

Finance (No. 2) Act 1977

Section 18 - Insertion of New Section 80hha

In the Income-tax Act, after section 80HHA, the following section shall be inserted, w.e.f. the 1st day of April, 1978, namely :-

80HHA. Deduction in respect of profits and gains from newly established small-scale industrial undertakings in certain areas. - (1) Where the gross total income of an assessee includes any profits and gains derived from a small-scale industrial undertaking to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent. thereof.

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

(i) it begins to manufacture or produce articles after the 30th day of Sept., 1977 in any rural area;

(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 small-scale 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 purposes;

(iv) it employs ten or more workers in a manufacturing process carried on with the aid of power or employs twenty or more workers in a manufacturing process carried on without the aid of power.

Explanation : Where in the case of a small-scale industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of cl. (iii) of this sub-section, the condition specified therein shall be deemed to have been fulfilled.

(3) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of each of the ten assessment years beginning with the assessment year relevant to the previous year in which the small-scale industrial undertaking begins to manufacture of produce articles.

(4) Where the assessee is a person, other than a company or a co-operative society, the deduction under sub-section (1) shall not be admissible unless the accounts of the small-scale industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(5) The provisions of sub-section (6) and (7) of section 80HH shall, so far as may be, apply in relation to the computation of the profits and gains of a small-scale industrial undertaking for the purposes of the deduction under this section as they apply in relation to the computation of the profits and gains of an industrial undertaking for the purposes of the deduction under that section.

(6) In a case where the assessee is entitled also to the deduction under section 80J in relation to the profits and gains of a small-scale industrial undertaking to which this section applies, effect shall first be given to the provisions of this section.

(7) Where a deduction in relation to the profits and gains of a small-scale industrial undertaking to which section 80HH applies is claimed and allowed under that section for any assessment year, deduction in relation to such profits and gains shall not be allowed under this section for the same or any other assessment year.

(8) Nothing contained in this section shall apply in relation to any small-scale industrial undertaking engaged in mining.

Explanation : For the purposes of this section, -

(a) "rural area" shall have the same meaning as in clause (b) of the Explanation to sub-section (1) of section 35CC;

(b) an industrial undertaking shall be deemed to be a small-scale industrial undertaking, if the aggregate value of the machinery and plant (other than tools, jigs, dies and moulds) installed, as on the last day of the previous year, for the purposes of the business of the undertaking does not exceed ten lakh rupees; and for this purpose the value of any machinery or plant shall be, -

(i) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee; and

(ii) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant.
