

Finance Act 2007

Section 15 - Insertion of New Section 44db

After section 44DA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2008, namely:--

'44DB. Special Provision for computing deductions in the case of business reorganisation of co-operative banks.--

(1) The deduction under section 32, section 35D, section 35DD or section 35DDA shall, in a case where business reorganisation of a co-operative bank has taken place during the financial year, be allowed in accordance with the provisions of this section.

(2) The amount of deduction allowable to the predecessor co-operative bank under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula--

$$\frac{A \times B}{C}$$

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the 1st day of the financial year and ending on the day immediately preceding the date of business reorganisation; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

(3) The amount of deduction allowable to the successor co-operative bank under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula--

$$\frac{A \times B}{C}$$

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the financial year; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

(4) The provisions of section 35D, section 35DD or section 35DDA shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank on account of business reorganisation, apply to the successor co-operative bank in the financial years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

(5) For the purposes of this section,--

(a) "amalgamated co-operative bank" means--

(i) a co-operative bank with which one or more amalgamating co-operative banks merge; or

(ii) a co-operative bank formed as a result of merger of two or more amalgamating co-operative banks;

(b) "amalgamating co-operative bank" means--

(i) a co-operative bank which merges with another co-operative bank; or

(ii) every co-operative bank merging to form a new co-operative bank;

(c) "amalgamation" means the merger of an amalgamating co-operative bank or banks with an amalgamated co-operative bank, in such manner that--

(i) all the assets and liabilities of the amalgamating co-operative bank or banks immediately before the merger (other than the assets transferred, by sale or distribution on winding up, to the amalgamated co-operative bank) become the assets and liabilities of the amalgamated co-operative bank;

(ii) the members holding seventy-five per cent. or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

(iii) the shareholders holding seventy-five per cent. or more in value of the shares in the amalgamating co-operative bank (other than the shares held by the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the amalgamated co-operative bank;

(d) "business reorganisation" means the reorganisation of business involving the amalgamation or demerger of a co-operative bank;

(e) "co-operative bank" shall have the meaning assigned to it in clause (cci) of section 5 of the Banking Regulation Act, 1949(10 of 1949);

(f) "demerger" means the transfer by a demerged co-operative bank of one or more of its undertakings to any resulting co-operative bank, in such manner that--

- (i) all the assets and liabilities of the undertaking or undertakings immediately before the transfer become the assets and liabilities of the resulting co-operative bank;
- (ii) the assets and the liabilities are transferred to the resulting cooperative bank at values (other than change in the value of assets consequent to their revaluation) appearing in its books of account immediately before the transfer;
- (iii) the resulting co-operative bank issues, in consideration of the transfer, its membership to the members of the demerged co-operative bank on a proportionate basis;
- (iv) the shareholders holding seventy-five per cent. or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting co-operative bank, otherwise than as a result of the acquisition of the assets of the demerged co-operative bank or any undertaking thereof by the resulting co-operative bank;
- (v) the transfer of the undertaking is on a going concern basis; and
- (vi) the transfer is in accordance with the conditions specified by the Central Government, by notification in the Official Gazette, having regard to the necessity to ensure that the transfer is for genuine business purposes;
- (g) "demerged co-operative bank" means the co-operative bank whose undertaking is transferred, pursuant to a demerger, to a resulting bank;
- (h) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank, as the case may be;
- (i) "successor co-operative bank" means the amalgamated co-operative bank or the resulting bank, as the case may be;
- (j) "resulting co-operative bank" means--
 - (i) one or more co-operative banks to which the undertaking of the demerged co-operative bank is transferred in a demerger; or
 - (ii) any co-operative bank formed as a result of demerger.'