

Finance Act 2007

Section 21 - Insertion of New Section 72ab

After section 72AA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2008, namely:--

'72AB. Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in business re-organisation of co-operative banks.--

(1) The assessee, being a successor co-operative bank, shall, in a case where the amalgamation has taken place during the previous year, be allowed to set off the accumulated loss and the unabsorbed depreciation, if any, of the predecessor cooperative bank as if the amalgamation had not taken place, and all the other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) The provisions of this section shall apply if--

(a) the predecessor co-operative bank--

(i) has been engaged in the business of banking for three or more years; and

(ii) has held at least three-fourths of the book value of fixed assets as on the date of the business reorganisation, continuously for two years prior to the date of business reorganisation;

(b) the successor co-operative bank--

(i) holds at least three-fourths of the book value of fixed assets of the predecessor co-operative bank acquired through business reorganisation, continuously for a minimum period of five years immediately succeeding the date of business reorganisation;

(ii) continues the business of the predecessor co-operative bank for a minimum period of five years from the date of business reorganisation; and

(iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the predecessor co-operative bank or to ensure that the business reorganisation is for genuine business purpose.

(3) The amount of set-off of the accumulated loss and unabsorbed depreciation, if any, allowable to the assessee being a resulting co-operative bank shall be,--

(i) the accumulated loss or unabsorbed depreciation of the demerged co-operative bank if the whole of the amount of such loss or unabsorbed depreciation is directly relatable to the

undertakings transferred to the resulting co-operative bank; or

(ii) the amount which bears the same proportion to the accumulated loss or unabsorbed depreciation of the demerged co-operative bank as the assets of the undertaking transferred to the resulting co-operative bank bears to the assets of the demerged co-operative bank if such accumulated loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting co-operative bank.

(4) The Central Government may, for the purposes of this section, by notification in the Official Gazette, specify such other conditions as it considers necessary, other than those prescribed under sub-clause (iii) of clause (b) of sub-section (2), to ensure that the business reorganisation is for genuine business purposes.

(5) The period commencing from the beginning of the previous year and ending on the date immediately preceding the date of business reorganisation, and the period commencing from the date of such business reorganisation and ending with the previous year shall be deemed to be two different previous years for the purposes of set-off and carry forward of loss and allowance for depreciation.

(6) In a case where the conditions specified in sub-section (2) or notified under sub-section (4) are not complied with, the set-off of accumulated loss or unabsorbed depreciation allowed in any previous year to the successor co-operative bank shall be deemed to be the income of the successor co-operative bank chargeable to tax for the year in which the conditions are not complied with.

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

(a) "accumulated loss" means so much of loss of the amalgamating co-operative bank or the demerged co-operative bank, as the case may be, under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such amalgamating co-operative bank or the demerged co-operative bank, would have been entitled to carry forward and setoff under the provisions of section 72 as if the business reorganisation had not taken place;

(b) "unabsorbed depreciation" means so much of the allowance for depreciation of the amalgamating co-operative bank or the demerged co-operative bank, as the case may be, which remains to be allowed and which would have been allowed to such bank as if the business reorganisation had not taken place;

(c) the expressions "amalgamated co-operative bank", "amalgamating co-operative bank", "amalgamation", "business reorganisation", "co-operative bank", "demerged co-operative bank", "demerger", "predecessor co-operative bank", "successor co-operative bank" and "resulting co-operative bank" shall have the meanings respectively assigned to them in section 44DB.'
