

**Finance Act 1999**

**Section 26 - Amendment of Section 43**

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In section 43 of the Income-tax Act, with effect from the 1st day of April, 2000, -

(a) in clause (1), -

(i) after Explanation 7, the following Explanation shall be inserted, namely :-

"Explanation 7A. - Where, in a demerger, any capital asset is transferred by the demerged company to the resulting company and the resulting company is an Indian company, the actual cost of the transferred capital asset to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business :

Provided that such actual cost shall not exceed the written down value of such capital asset in the hands of the demerged company.";

(ii) after Explanation 10, the following Explanation shall be inserted, namely :-

"Explanation 11. -Where an asset which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee.";

(b) in clause (6), -

(i) in sub-clause (c), in item (i), after sub-item (B), the following sub-item shall be inserted, namely :-

"(C) in the case of a slump sale, decrease by the actual cost of the asset falling within that block as reduced -

(a) by the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922) in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) by the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988 as if the asset was the only asset in the relevant block of assets, so, however, that the amount of such decrease does not exceed the written down value;";

(ii) after Explanation 2, the following Explanations shall be inserted, namely :-

"Explanation 2A. - Where in any previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets of the demerged company for the immediately preceding previous year shall be reduced by the book value of the assets transferred to the resulting company pursuant to the demerger.

Explanation 2B. - Where in a previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets in the case of the resulting company shall be the value of the assets as appearing in the books of account of the demerged company immediately before the demerger :

Provided that if the value of the assets as appearing in the books of account of the demerged company immediately before the demerger exceeds the written down value of such assets in the hands of the demerged company, the amount representing such excess shall be reduced from the written down value of the assets."

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