

Finance Act, 1987

Section 3 - Amendment of Section 2

In section 2 of the Income-tax Act, -

(a) in clause (22), with effect from the 1st day of April, 1988, -

(i) in sub-clause (e), for the words "by way of advance or loan to a shareholder, being a person who has a substantial interest in the company,", the words, figures, letters and brackets "made after the 31st day of May, 1987, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten per cent. of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern)" shall be substituted;

(ii) in sub-clause (ii), after the words "a shareholder", the words "or the said concern" shall be inserted;

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

'Explanation 3 : For the purposes of this clause, -

(a) "concern" means a Hindu undivided family, or a firm or an association of persons or a body of individuals or a company;

(b) a person shall be deemed to have a substantial interest in a concern, other than a company, if he is, at any time during the previous year, beneficially entitled to not less than twenty per cent. of the income of such concern;';

(b) in clause (24), after sub-clause (ix), the following sub-clause shall be inserted with effect from the 1st day of April, 1988, namely :-

"(x) any sum received by the assessee from his employees as contribution to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees;";

(c) after clause (29), the following clauses shall be inserted with effect from the 1st day of April, 1988, namely :-

'(29A) "long-term capital asset" means a capital asset which is not a short-term capital asset;

(29B) "long-term capital gain" means capital gain arising from the transfer of a long-term capital asset;';

(d) after clause (36), the following clause shall be inserted, namely :-

'(36A) "public sector company" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);';

(e) in clause (42A), before the Explanation, the following proviso shall be inserted with effect from the 1st day of April, 1988, namely :-

'Provided that in the case of a share held in a company, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twelve months" had been substituted.';

(f) after clause (42A), the following clause shall be inserted with effect from the 1st day of April, 1988, namely :-

'(42B) "short-term capital gain" means capital gain arising from the transfer of a short-term capital asset;';

(g) in clause (47), with effect from the 1st day of April, 1988, -

(i) in sub-clause (iv), the word "or" shall be inserted at the end;

(ii) after sub-clause (iv), the following sub-clauses and Explanation shall be inserted, namely :-

'(v) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882); or

(vi) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, any immovable property.

Explanation : For the purposes of sub-clauses (v) and (vi), "immovable property" shall have the same meaning as in clause (d) of section 269UA
