Finance Act 1978

Section 8 - Amendment of Section 37

In section 37 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted with effect from the 1st day of April, 1979, namely :-

(3A) Notwithstanding anything contained in sub-section (1) but without prejudice to the provisions of sub-section (3), where the aggregate expenditure incurred by an assessee on advertisement, publicity and sales promotion in India exceeds forty thousand rupees, so much of such aggregate expenditure as is equal to an amount calculated as provided hereunder shall not be allowed as a deduction, namely :-

(i) where such aggregate expenditure does not exceed 1/4 per cent. of the turnover or, as the case may be gross receipts of the business or profession	10% of the adjusted expenditure;
(ii) where such aggregate expenditure exceeds 1/4% but does not exceed 1/2 of the turnover or, as the case may be, gross receipts of the business or profession	12 1/2% of the adjusted expenditure;
(iii) where such aggregate expenditure does not exceeds 1/2 per cent. of of the turnover or, as the case may be, gross receipts of the business or profession	15% of the adjusted expenditure.

Explanation : For the purposes of this sub-section, -

(a) "adjusted expenditure" means the aggregate expenditure incurred by the assessee on advertisement, publicity and sales promotion in India as reduced by so much of such expenditure as is not allowed under sub-section (1) and as further reduced by so much of such expenditure as is not allowed under sub-section (3);

(b) "turnover" and "gross receipts" means turnover or gross receipts, as the case may be, as reduced by any discount or rebate allowed by the assessee.

(3B) Nothing contained in sub-section (3A) shall apply in relation to any expenditure incurred by an assessee on -

(i) advertisement in any small newspaper;

(ii) advertisement in any newspaper for recruitment of personnel;

(iii) the publication in any newspaper of any notice required to be published by or under any law;

(iv) the maintenance of any office for the purposes of advertisement, publicity or sales promotion;

(v) the payment of salary [as defined in clause (1) of section 17] to any employee engaged in advertisement, publicity or sales promotion;

(vi) the holding of, or the participation in, any press conference, sales conference, trade convention, trade fair or exhibition;

(vii) publication and distribution of journals, catalogues or price lists;

(viii) such other items as may be prescribed.

Explanation 1 : For the purposes of clause (i), an advertisement in a newspaper shall be deemed to be an advertisement in a small newspaper, if the average circulation of such newspaper in the year in which such advertisement has been published, is certified by the prescribed authority as not exceeding fifteen thousand copies.

Explanation 2 : "Average circulation", in relation to any newspaper, shall be taken to be the number arrived at by dividing the aggregate of the number of copies of such newspaper circulated during a year by the total number of days on which such newspaper was published in that year.

(3C) For the removal of doubts, it is hereby declared that nothing contained in sub-section (3A) shall apply in relation to expenditure in the nature of entertainment expenditure incurred by an assessee in connection with advertisement, publicity or sales promotion and such expenditure shall be governed by the provisions of sub-section (2A).

(3D) In a case where an assessee has set up an industrial undertaking for the manufacture or production of any articles, nothing in sub-section (3A) shall apply in respect of any expenditure on advertisement, publicity or sales promotion incurred by the assessee for the purposes of the business of such undertaking, in the previous year in which such undertaking begins to manufacture or produce such articles and each of the two previous years immediately succeeding that previous year..