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Finance Act 1978

Section 12 - Amendment of Section 54d

Section 54D of the Income-tax Act shall be renumbered and shall be deemed to have been renumbered with effect from the 1st day of April, 1974, as sub-section (1) thereof and, -

(a) in sub-section (1) as so renumbered, after the words "for the purposes of the business of the said undertaking", the brackets and words "(hereafter in this section referred to as the original asset)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974, namely -

"(2) Where the compensation awarded for the compulsory acquisition of the original asset is enhanced by any court, tribunal or other authority, then,

(a) so much of the capital gain, computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as is not excluded under sub-section (1) from being charged to tax under section 45, or

(b) the capital gain attributable to the enhancement of the compensation,

whichever is less (that which is less being hereafter in this sub-section referred to as the unadjusted capital gain), shall, if the assessee has within a period of three years after the date of receipt of the additional compensation purchased any land or building or any right in any land or building or constructed any building for the purposes of shifting or re-establishing the undertaking referred to in sub-section (1) or setting up another industrial undertaking (such land, building or right being hereafter in this sub-section referred to as the relevant asset), be dealt with in the following manner, that is to say, -

(i) if the amount of the unadjusted capital gain is grater than the cost of the relevant asset, the difference between the amount of the unadjusted capital gain and the cost of the relevant asset shall be charged under section 45 as the income of the previous year in which the transfer took place; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or

(ii) if the amount of the unadjusted capital gain is equal to or less that the cost of the relevant asset, the unadjusted capital gain shall not be charged under section 45; and for the purpose of computing in respect of the relevant asset any capital gain arising from its transfer within a

period of three years of its purchase or construction, as the case may be, the cost shall be reducted by the amount of the unadjusted capital gain.".

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