

Finance Act, 2003

Section 7 - Amendment of Section 10a

In section 10A of the Income-tax Act,--

(a) for sub-section (1A), the following sub-sections shall be substituted with effect from the 1st day of April, 2004, namely:--

"(1A) Notwithstanding anything contained in sub-section (1), the deduction, in computing the total income of an undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2003, in any special economic zone, shall be,--

(i) hundred per cent. of profits and gains derived from the export of such articles or things or computer software for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, and thereafter, fifty per cent. of such profits and gains for further two consecutive assessment years, and thereafter;

(ii) for the next three consecutive assessment years, so much of the amount not exceeding fifty per cent. of the profits as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Allowance Reserve Account") to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (1B).

(1B) The deduction under clause (ii) of sub-section (1A) shall be allowed only if the following conditions are fulfilled, namely:--

(a) the amount credited to the Special Economic Zone Re-investment Allowance Reserve Account is to be utilised-

(i) for the purposes of acquiring new machinery or plant which is first put to use before the expiry of a period of three years next following the previous year in which the reserve was created; and

(ii) until the acquisition of new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(b) the particulars, as may be prescribed in this behalf, have been furnished by the assessee in respect of new machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(1C) Where any amount credited to the Special Economic Zone Reinvestment Allowance Reserve Account under clause (ii) of sub-section (1A),--

(a) has been utilised for any purpose other than those referred to in sub-section (1B), the amount so utilised; or

(b) has not been utilised before the expiry of the period specified in sub-clause (i) of clause (a) of sub-section (1B), the amount not so utilised, shall be deemed to be the profits,--

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (1B),

and shall be charged to tax accordingly,";

(b) in sub-section (4), for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letter "sub-sections (1) and (1A)" shall be substituted;

(c) in sub-section (5), for the word, brackets and figure "sub-section (1)", the words "this section" shall be substituted;

(d) in sub-section (6),--

(A) in clause (i), after the words "relevant assessment years", the words, figures and letters "ending before the 1st day of April, 2001" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001;

(B) in clause (ii), after the words "relevant assessment years", the words, figures and letters "ending before the 1st day of April, 2001" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001;

(e) after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of April, 2004, namely:--

"(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger,--

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.";

(f) sub-sections (9) and (9A) shall be omitted with effect from the 1st day of April, 2004;

(g) Explanation 1 shall be omitted with effect from the 1st day of April, 2004;

(h) after Explanation 3, the following Explanation shall be inserted at the end with effect from the 1st day of April, 2004, namely:--

'Explanation 4.--For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.'
