

## **Finance Act 1976**

### **Section 21 - Amendment of Section 155**

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In section 155 of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted, namely :-

(4A) Where the allowance by way of investment allowance has been made wholly or partly to an assessee in respect of a ship or an aircraft or any machinery or plant in any assessment year under section 32A and subsequently -

(a) at any time before the expiry of eight years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person other than Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (6) or sub-section (7) of section 32A; or

(b) at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) of section 32A for the purposes of acquiring a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature to in clauses (a), (b) and (d) of the proviso to sub-section (1) of section 32A] for the purposes of the business of the undertaking; or

(c) at any time before the expiry of the ten years referred to in clause (b), the assessee utilises the amount credited to the reserve account under sub-section (4) of section 32A -

(i) for distribution by way of dividends or profits; or

(ii) for remittance outside India as profits or for the creation of any asset outside India; or

(iii) for any other purpose which is not a purpose of the business of the undertaking,

the investment allowance originally allowed shall be deemed to have been wrongly allowed, and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned, -

- (i) in a case referred to in clause (a), from the end of the previous year in which the sale or other transfer took place;
- (ii) in a case referred to in clause (b), from the end of the ten years referred to in that clause;
- (iii) in a case referred to in clause (c), from the end of the previous year in which the amount was utilised.

Explanation : For the purposes of clause (b), "new ship" or "new aircraft" or "new machinery or plant" shall have the same meanings as in the Explanation to clause (vi) of sub-section (1) of section 32..