

## Finance Act, 1986

### Section 8 - Insertion of New Section 32ab

After section 32A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1987, namely :-

'32AB. Investment deposit account. - (1) Subject to the other provisions of this section, where an assessee, whose total income includes income chargeable to tax under the head "Profits and gains of business or profession", has, out of such income, -

(a) deposited any amount in an account (hereafter in this section referred to as deposit account) maintained by him with the Development Bank before the expiry of six months from the end of the previous year or before furnishing the return of his income, whichever is earlier; or

(b) utilised any amount during the previous year for the purchase of any new ship, new aircraft, new machinery or plant, without depositing any amount in the deposit account under clause (a),

in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) to be framed by the Central Government, or if the assessee is carrying on the business of growing and manufacturing tea in India, to be approved in this behalf by the Tea Board, the assessee shall be allowed a deduction of -

(i) a sum equal to the amount, or the aggregate of the amounts, so deposited and any amount so utilised; or

(ii) a sum equal to twenty per cent. of the profits of eligible business or profession as computed in the accounts of the assessee audited in accordance with sub-section (5),

whichever is less.

(2) For the purposes of this section, -

(i) "eligible business or profession" shall mean business or profession, other than -

(a) the business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule carried on by an industrial undertaking, which is not a small-scale industrial undertaking as defined in section 80HHA;

(b) the business of leasing or hiring of machinery or plant to an industrial undertaking, other than a small-scale industrial undertaking as defined in section 80HHA, engaged in the business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

(ii) "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.

(3) The profits of eligible business or profession of an assessee for the purposes of sub-section (1) shall, -

(a) in a case where separate accounts in respect of such eligible business or profession are maintained, be an amount arrived at after deducting an amount equal to the depreciation computed in accordance with the provisions of sub-section (1) of section 32 from the amounts of profits computed in accordance with the requirements of Parts II and III of the Sixth Schedule to the Companies Act, 1956 (1 of 1956) as increased by an amount equal to the depreciation, if any, debited in the audited profit and loss account; and

(b) in a case where such separate accounts are not maintained or are not available, be such amount which bears to the total profits of the business or profession of the assessee after allowing depreciation in accordance with the provisions of sub-section (1) of section 32, the same proportion as the total sales, turnover or gross receipts of the eligible business or profession bear to the total sales, turnover or gross receipts of the business or profession carried on by the assessee.

(4) No deduction under sub-section (1) shall be allowed in respect of any amount utilised for the purchase of, -

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest house;

(b) any office appliances (not being computers);

(c) any road transport vehicles;

(d) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year.

(5) The deduction under sub-section (1) shall not be admissible unless the accounts of the business or profession of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant :

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business or profession audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

(6) Where any amount, standing to the credit of the assessee in the deposit account, released during any previous year by

the Development Bank for being utilised by the assessee for the purposes specified in the scheme or at the closure of the account, is not utilised in accordance with the scheme, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.

(7) Where any asset acquired in accordance with the scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deductions allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year :

Provided that nothing in this sub-section shall apply -

(i) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(ii) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme continues to apply to the company in the manner applicable to the firm.

Explanation : The provisions of clause (ii) of the proviso shall apply only where -

(i) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(ii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(8) The Central Government may, if it considers it necessary or expedient so to do, by notification in the Official Gazette, omit any article or thing from the list of articles or things specified in the Eleventh Schedule.

(9) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the provisions of this section shall not apply to any class of assessee, with effect from such date as it may specify in the notification.

(10) No deduction shall be allowed under this section in the case of an assessee who has claimed the deduction allowable under section 33AB.

Explanation : In this section, -

(a) "computers" does not include calculating machines and calculating devices;

(b) "Development Bank" means -

(i) in the case of an assessee carrying on business of growing and manufacturing tea in India, the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(ii) in the case of other assessee, the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964), and includes such bank or institution as may be specified in the scheme in this behalf.

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