

Finance Act, 2003

Section 33 - AMENDMENT OF SECTION 72A In section 72A of the Income tax Act,-with effect from the 1st day of April, 2004,

a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:- "(1) Where there has been an amalgamation of a company owning an industrial undertaking or a ship or a hotel with another company or an amalgamation of a banking company referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a specified bank, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly. (2) Notwithstanding anything contained in sub-section (1), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless- (a) the amalgamating company- (i) has been engaged in the business, in which the accumulated loss occurred or depreciation remains unabsorbed, for three or more years; (ii) has held continuously as on the date of the amalgamation at least three -fourths of the book value of fixed assets held by it two years prior to the date of amalgamation; (b) the amalgamated company- (i) holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation; (ii) continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation; (iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose."; (b) in sub-section (7), after clause (b), the following clause shall be inserted, namely:- (c) "specified bank' means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).'