

Finance Act 1968

Chapter III - Income-tax

In section 2 of the Income-tax Act, in sub-clause (i) of clause (37A), after the word "Salaries", the words, brackets, figures and letter "or sub-section (9) of section 80E from any payment referred to therein" shall be inserted.

Section 5 - Insertion of New Sections 35B and 35C

After section 35A of the Income-tax Act, the following sections shall be inserted, namely :-

35B. Export markets development allowance. - (1)(a) Where an assessee, being a domestic company or a person (other than a company) who is resident in India, has incurred after the 29th day of February, 1968, whether directly or in association with any other person, any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) referred to in clause (b), he shall, subject to the provisions of this section, be allowed a deduction of a sum equal to one and one-third times the amount of such expenditure incurred during the previous year.

(b) The expenditure referred to in clause (a) is that incurred wholly and exclusively on -

- (i) advertisement or publicity outside India in respect of the goods, services or facilities which the assessee deals in or provides in the course of his business;
- (ii) obtaining information regarding markets outside India for such goods, services or facilities;
- (iii) distribution, supply or provision outside India of such goods, services or facilities;
- (iv) maintenance outside India of a branch, office or agency for the promotion of the sale outside India of such goods, services or facilities;
- (v) preparation and submission of tenders for the supply or provision outside India of such goods, services or facilities, and activities incidental thereto;
- (vi) furnishing to a person outside India samples or technical information for the promotion of the sale of such goods, services or facilities;
- (vii) travelling outside India for the promotion of the sale outside India of such goods, services or facilities, including travelling outward from, and return to, India;
- (viii) performance of services outside India in connection with, or incidental to, the execution of any contract for the supply outside India of such goods, services or facilities;
- (ix) such other activities for the promotion of the sale outside India of such goods, services or facilities as may be prescribed.

Explanation : In this section, "domestic company" shall have the meaning assigned to it in clause (2) of section 80B.

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year.

35C. Agricultural development allowance. - (1)(a) Where any company is engaged in the manufacture or processing of any article or thing which is made from, or uses in such manufacture or processing as raw material, any product of agriculture, animal husbandry, or dairy or poultry farming, and has incurred, after the 29th day of February, 1968, whether directly or through an association or body which has been approved for the purposes of this section by the prescribed authority, any expenditure in the provision of any goods, services or facilities specified in clause (b) to a person [not being a person referred to in clause (b) of sub-section (2) of section 40A] who is a cultivator, grower or producer of such product in India, the company shall, subject to the provisions of this section, be allowed a deduction of a sum equal to one and one-fifth times the amount of such expenditure incurred during the previous year.

(b) The goods, services or facilities referred to in clause (a) are the following :-

- (i) fertilisers, seeds, pesticides, concentrates for cattle and poultry feed, tools or implements, for use by such cultivator, grower or producer;
- (ii) dissemination of information on, or demonstration of, modern techniques or methods of agriculture, animal husbandry, or dairy or poultry farming, or advice on such techniques or methods;
- (iii) such other goods, services or facilities as may be prescribed.

Explanation : In computing the expenditure with reference to which deduction under this section is to be allowed, the amount, if any, received by the company in consideration of, or as compensation for, such goods, services or facilities shall be deducted.

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure of the nature specified in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year..

Section 6 - Amendment of Section 37

In section 37 of the Income-tax Act, after sub-section (2A), the following Explanation shall be inserted, namely :-

Explanation : For the purposes of this sub-section, "entertainment expenditure" includes -

- (i) the amount of any allowance in the nature of entertainment allowance paid by the assessee to any employee or other person after the 29th day of February, 1968;
- (ii) the amount of any expenditure in the nature of entertainment expenditure [not being expenditure incurred out of an allowance of the nature referred to in clause (i)] incurred after the 29th day of February, 1968, for the purposes of the business or profession of the assessee by any employee or other person..

Section 7 - Insertion of New Section 40A

After section 40 of the Income-tax Act, the following section shall be inserted, namely :-

40A. Expenses or payments not deductible in certain circumstances. - (1) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act relating to the computation of income under the head "Profits and gains of business or profession".

(2)(a) Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (b) of this sub-section, and the Income-tax Officer is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction :

Provided that the provisions of this section shall not apply in the case of an assessee being a company in respect of any expenditure to which sub-clause (i) of clause (c) of section 40 applies.

(b) The persons referred to in clause (a) are the following namely :-

- (i) where the assessee is an individual any relative of the assessee;
- (ii) where the assessee is a company, firm., association of persons or Hindu undivided family any director of the company, company, firm, partner of the firm, or member association of persons of the association or family, or Hindu undivided family or any relative of such director, partner or member;
- (iii) any individual who has a substantial interest in the business or profession of the assessee, or any relative of such individual;
- (iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the assessee or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member;
- (v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the assessee or

any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

(vi) any person who carries on a business or profession, -

(A) where the assessee being an individual, or any relative of such assessee, has a substantial interest in the business or profession of that person; or

(B) where the assessee being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person.

Explanation : For the purposes of this sub-section, a person shall be deemed to have a substantial interest in a business or profession, if, -

(a) in a case where the business or profession is carried on by a company, such person is, at any time during the previous year, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than twenty per cent. of the voting power; and

(b) in any other case, such person is at any time during the previous year, beneficially entitled to not less than twenty per cent. of the profits of such business or profession.

(3) Where the assessee incurs any expenditure in respect of which payment is made, after such date (not being later than the 31st day of March, 1969) as may be specified in this behalf by the Central Government by notification in the Official Gazette, in a sum exceeding two thousand five hundred rupees otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft, such expenditure shall not be allowed as a deduction :

Provided that where an allowance has been made in the assessment for any year not being an assessment year commencing prior to the 1st day of April, 1969, in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year the assessee makes any payment in respect thereof in a sum exceeding two thousand five hundred rupees otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft, the allowance originally made shall be deemed to have been wrongly made and the Income-tax Officer may recompute the total income of the assessee for the previous year in which such liability was incurred 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 from the end of the assessment year next following the previous year in which the payment was so made :

Provided further that no disallowance under this sub-section shall be made where any payment in a sum exceeding two thousand five hundred rupees is made otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft, in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors..

Section 8 - Amendment of Section 58

Section 58 of the Income-tax Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :-

(2) The provisions of section 40A shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession"..

Section 9 - Amendment of Section 80K

In section 80K of the Income-tax Act, for the words "being the holder of any share or shares in a company, includes any income by way of dividends paid or deemed to have been paid to him", the words "being the owner of any share or shares in a company, includes any income by way of dividends paid or deemed to have been paid" shall be substituted.

Section 10 - Amendment of Section 80M

Section 11 - Insertion of New Section 141A

After section 141 of the Income-tax Act, the following section shall be inserted, namely :-

"141A. Provisional assessment for refund. - (1) Where a return has been furnished under section 139 and the assessee claims that the tax paid or deemed to have been paid under the provisions of Chapter XVII-B or Chapter XVII-C exceeds the tax payable on the basis of the return and the accounts and documents accompanying it, the Income-tax Officer may, if he is of opinion that the regular assessment of the assessee is likely to be delayed, proceed to make, in a summary manner, a provisional assessment of the sum refundable to the assessee, on the basis of such return, accounts and documents.

(2) In making any assessment under this section due effect shall be given to -

(a) the allowance referred to in sub-section (2) of section 32; and

(b) any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74.

(3) A firm may be assessed under sub-section (1) as an unregistered firm, except in the following cases, where it shall be assessed as a registered firm -

(a) where the firm was assessed as a registered firm for the latest assessment year for which its assessment has been completed, and it has before the expiry of the period laid down in Chapter XVI-B filed its application for registration or declaration under sub-section (7) of section 184 for the assessment year for which the provisional assessment is to be made;

(b) where no regular assessment has been made on the firm for any assessment year preceding the assessment year for which the provisional assessment is to be made, and the firm has, before the expiry of the period laid down in Chapter XVI-B filed its application for registration, or declaration as aforesaid, for the assessment year for which the provisional assessment is to be made.

(4) After a regular assessment has been made, any amount refunded on provisional assessment made under sub-section (1) shall be dealt with in the manner specified hereunder, namely :-

(a) where the sum refundable on regular assessment is equal to or exceeds the amount refunded under sub-section (1), the amount so refunded shall be deemed to have been refunded towards the regular assessment;

(b) where no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

(5) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination, on the merits, of any issue which may arise in the course of the regular assessment.

(6) There shall be no right of appeal against a provisional assessment made under sub-section (1)."

Section 12 - Amendment of Section 153

In section 153 of the Income-tax Act, in sub-section (1), for clause (a), the following clause shall be substituted, namely :-

(a) the expiry of -

(i) four years from the end of the assessment year in which the income was first assessable, where such assessment year is an assessment year commencing on or before the 1st day of April, 1967;

(ii) three years from the end of the assessment year in which the income was first assessable, where such assessment year is the assessment year commencing on the 1st day of April, 1968;

(iii) two years from the end of the assessment year in which the income was first assessable, where such assessment year is an assessment year commencing on or after the 1st day of April, 1969; or".

Section 13 - Amendment of Section 192

In section 192 of the Income-tax Act, in sub-section (1), for the words "rates of tax in force", the words "rates in force" shall be substituted.

Section 14 - Amendment of Section 194A

In section 194A of the Income-tax Act, -

(a) in sub-section (2), for the words "be signed in the presence of a Gazetted Officer of the Central or a State Government and bear an attestation by such Officer to the effect that the person who has signed the statement is known to him", the following shall be substituted, namely :-

"be signed in the presence of -

(a) a Member of Parliament or a State Legislature; or

(b) a member of a District Council or a Metropolitan Council, a Municipal Corporation or Municipal Committee; or

(c) a Gazetted Officer of the Central or a State Government; or

(d) an officer of any banking company (including a co-operative bank) of the rank of sub-agent, agent or manager,

and bear an attestation by such member or officer to the effect that the person who has signed the statement is known to him.";

(b) in sub-section (3), -

(i) in sub-clause (f) of clause (iii), after the words "institution, association or body", the words "or class of institutions, associations or bodies" shall be inserted;

(ii) after clause (iii), the following clauses shall be inserted, namely :-

"(iv) to such income credited or paid by a firm to a partner of the firm;

(v) to such income credited or paid by a co-operative society to any other co-operative society."

Section 15 - Amendment of Section 199

In section 199 of the Income-tax Act, -

(a) after the words "in the assessment", the brackets, words, figures and letter "(including a provisional assessment under section 141A)" shall be inserted;

(b) for the existing provisos, the following provisos shall be, and shall be deemed always to have been, substituted, namely :-

"Provided that -

(i) in a case where such person or owner or shareholder is a person whose income is included under the provisions of section 60, section 61, section 64, section 93 or section 94 in the total income of another person, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person;

(ii) in any other case, where the dividend on any share is assessable as the income of a person other than the shareholder, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person in such circumstances as may be prescribed :

Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, each such person in the same proportion in which the interest on such security or dividend on such share is assessable as his income."

Section 16 - Amendment of Section 214

In section 214 of the Income-tax Act, -

(i) to sub-section (1), the following proviso shall be added namely :-

"Provided that in respect of any amount refunded on a provisional assessment under section 141A, on interest shall be paid for any period after the date of such provisional assessment.";

(ii) after sub-section (1), the following sub-section shall be inserted, namely :-

"(1A) Where on completion of the regular assessment the amount on which interest was paid under sub-section (1) has been reduced, the interest shall be reduced accordingly and the excess, if any, paid shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.".

Section 17 - Amendment of Section 219

To section 219 of the Income-tax Act, the following proviso shall be added, namely :-

"Provided that where, before the completion of the regular assessment, a provisional assessment is made under section 141A, the credit shall be given also in such provisional assessment.".

Section 18 - Amendment of Section 239

In section 239 of the Income-tax Act, for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) No such claim shall be allowed, unless it is made within the period specified hereunder, namely :-

(a) where the claim is in respect of income which is assessable for any assessment year commencing on or before the 1st day of April, 1967, four years from the last day of such assessment year;

(b) where the claim is in respect of income which is assessable for the assessment year commencing on the 1st day of April, 1968, three years from the last day of the assessment year;

(c) where the claim is in respect of income which is assessable for any other assessment year, two years from the last day of such assessment year.".

Section 19 - Amendment of Section 271

In section 271 of the Income-tax Act, in sub-section (1), for clause (iii), the following clause shall be substituted, namely :-

"(iii) in the cases referred to in clause (c), in addition to any tax payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of the income in respect of which the particulars have been concealed or inaccurate particulars have been furnished.".

Section 20 - Amendment of Section 276

In section 276 of the Income-tax Act, in clause (d), the words, figures and letter "by the provisions of Chapter XVII-B or" shall be omitted.

Section 21 - Insertion of New Section 276B

After section 276A of the Income-tax Act, the following section shall be inserted, namely :-

"276B. Failure to deduct and pay tax. - If a person, without reasonable cause or excuse, fails to deduct or after deducting fails to pay the tax as required by or under the provisions of sub-section (9) of section 80E or Chapter XVII-B, he shall be punishable with rigorous imprisonment for a term which may extend to six months, and shall also be liable to fine which shall be not less than a sum calculated at the rate of fifteen per cent. per annum on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.".

Section 22 - Amendment of Section 279

In section 279 of the Income-tax Act, in sub-section (1), after the word, figures and letter "section 276A" the words, figures and letter "or section 276B" shall be inserted.

Section 23 - Amendment of Section 280C

In section 280C of the Income-tax Act, -

(a) in sub-section (1), for the words "Where any Central Act enacts", the words, figures and letters "Where, in relation to any assessment year, not being an assessment year commencing on or after the 1st day of April, 1969, any Central Act enacts" shall be substituted;

(b) in clause (ii) of sub-section (2), after the words "or any subsequent assessment year", the words, figures and letters "not being an assessment year commencing on or after the 1st day of April, 1969" shall be inserted.

Section 24 - Amendment of Section 280-O

In section 280-O of the Income-tax Act, in the proviso to sub-section (1), after the words "or any subsequent assessment year", the brackets, words, figures and letters "(not being an assessment year commencing on or after the 1st day of April, 1969)" shall be inserted.

Section 25 - Amendment of Section 280X

In section 280X of the Income-tax Act, in sub-section (1), after the words "or any subsequent assessment year" the brackets, words, figures and letters "(not being an assessment year commencing on or after the 1st day of April, 1969)" shall be inserted.

Section 26 - Amendment of Section 280Z

In section 280Z of the Income-tax Act, for sub-section (6), the following sub-section shall be substituted namely :-

"(6) The amount shown on a tax credit certificate granted to as individual or Hindu undivided family shall, on the certificate being produced before the Income-tax Officer, be adjusted against any liability of such individual or Hindu undivided family under the Indian Income-tax Act, 1922, (11 of 1922), or this Act, existing on the date on which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such individual or Hindu undivided family, as the case may be, under the Chapter and the provisions of this Act shall apply accordingly."

Section 27 - Amendment of Section 280ZA

In section 280ZA of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted namely :-

"(3) The amount shown on a tax credit certificate granted to a public company under this section shall, on the certificate being produced before the Income-tax Officer, be adjusted against any liability of the company under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, existing on the date of which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, be refund due to such company under that Chapter and the provisions of the Act shall apply accordingly."

Section 28 - Amendment of Section 280ZB

In section 280ZB of the Income-tax Act, in sub-section (2), for the portion beginning with the words "The amount shown on a tax credit certificate" and ending with the words "shall apply accordingly :", the following shall be substituted, namely :-

"The amount shown on a tax credit certificate granted to any company under this section shall, on the certificate being produced before the Income-tax Officer, be adjusted against any liability of the company under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, existing on the date on which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such company under that Chapter and the provisions of this Act shall apply accordingly :".

Section 29 - Amendment of Section 280ZD

In section 280ZD of the Income-tax Act, in sub-section (5), for the portion beginning with the words "The amount shown on

a tax credit certificate" and ending with the words "shall apply accordingly :", the following shall be substituted, namely :-

"The amount shown on a tax credit certificate granted to any person under this section shall, on the certificate being produced before the income-tax Officer, be adjusted against any liability of that person under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, existing on the date on which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such person under that Chapter and the provisions of this Act shall apply accordingly :".

Section 30 - Certain Additional Amendments to the Income-Tax Act

The amendments directed in the Third Schedule shall be made in the Income-tax Act with effect from the 1st day of April, 1969, except the amendments in items 3 and 23 of the said Schedule relating, respectively, to sections 16 and 139 of the said Act, which shall be deemed to have come into effect on the 1st day of April, 1968.

Section 31 - Special Provisions in Regard to Certain Assessments Under the Income-Tax Act

(1) Notwithstanding the omission of section 85 of the Income-tax Act by section 33 of the Finance (No. 2) Act, 1967 (20 of 1967), the provisions of the said section 85 shall have, and be deemed always to have, in relation to any assessment for the assessment year commencing on or after the 1st day of April, 1962, and before the 1st day of April, 1968, effect subject to the modification that for the words "by a shareholder in respect of so much of any dividend paid or deemed to be paid to him", the words "by an owner of the shares in respect of so much of any dividend paid or deemed to be paid" were substituted.

(2) Notwithstanding the omission of section 85A of the Income-tax Act by section 33 of the Finance (No. 2) Act, 1967 (20 of 1967), the provisions of the said section 85A shall have, and be deemed always to have, in relation to any assessment for the assessment year commencing on or after the 1st day of April, 1965, and before the 1st day of April, 1968, effect subject to the modification that the words "received by it", wherever they occur, were omitted.

(3) Notwithstanding the omission of section 99 of the Income-tax Act by section 29 of the Finance Act, 1965 (10 of 1965), the provisions of clause (iv) of sub-section (1) of the said section 99 shall have, and be deemed always to have, in relation to any assessment for the assessment year commencing on or after the 1st day of April, 1962, and before the 1st day of April, 1965, effect subject to the modification that the words "received by it" were omitted.
