

Finance Act,1990

Section 10 - Substitution of New Section for Section 33ab

For section 33AB of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1991, namely :-

'33AB. Tea Development Account. -

(1) Where an assessee carrying on business of growing and manufacturing tea in India has, before the expiry of six months from the end of the previous year or before furnishing the return of his income, whichever is earlier, deposited with the National Bank any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Tea Board, the assessee shall, subject to the provisions of this section, be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of -

(a) a sum equal to the amount or the aggregate of the amounts so deposited; or

(b) a sum equal to twenty per cent. of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section),

whichever is less :

Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income any partner, or as the case may be, any member of such firm, association of persons or body of individuals :

Provided further that where any deduction, in respect of any amount deposited in the special account, has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

(2) The deduction under sub-section (1) shall not be admissible unless the accounts of such business 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 audited under such law and furnishes the report of the audit as required under such other law a further report in the form prescribed under this sub-section.

(3) Any amount standing to the credit of the assessee in the special account shall not be allowed to be withdrawn except for the purposes specified in the scheme or in the circumstances specified below :-

- (a) closure of business;
- (b) death of an assessee;
- (c) partition of a Hindu undivided family;
- (d) dissolution of a firm;
- (e) liquidation of a company.

(4) Notwithstanding anything contained in sub-section (3), 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 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;
- (d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

(5) Where any amount, standing to the credit of the assessee in the special account, is withdrawn during any previous year by the assessee in the circumstance specified in clause (a) or clause (d) of sub-section (3), the whole of such amount 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, as if the business had not closed or, as the case may be, the firm had not been dissolved.

(6) Where any amount standing to the credit of the assessee in the special account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(7) Where any amount, standing to the credit of the assessee in the special account, which is released during any previous year by the National Bank for being utilised by the assessee for the purposes of such business in accordance with the scheme is not so utilised, 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 profits and gains of business and accordingly chargeable to income-tax as the income of that previous year :

Provided that this sub-section shall not apply in a case where such amount is released during any previous year at the closure of the account in circumstances specified in clauses (b), (c) and (e) of sub-section (3).

(8) 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 deduction 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.

(9) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation : In this section, -

(a) "National Bank" means 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).

(b) "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953)'.
