Finance (No. 2) Act, 1998

Section 9 - Amendment of Section 32

In section 32 of the Income-tax Act, in sub-section (1),--

(a) for the opening portion beginning with the words "in respect of depreciation of buildings, machinery, plant or furniture owned, wholly or partly," and ending with the words and figures "section 34 be allowed-" the following shall be substituted with effect from the 1st day of April, 1999, namely:--

"In respect of depreciation of--

(i) buildings, machinery, plant or furniture, being tangible assets;

(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998.

owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed-"

(b) in the fourth proviso, for the words "plant or furniture", the words "plant or furniture, being tangible asset or know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets shall be substituted with effect from the 1st day of April, 1999;

(c) after Explanation 2 the following Explanations shall be inserted with effect from the 1st day of April, 1999, namely:--

'Explanation 3.-- For the purposes of this sub-section, the expression "assets" and "block of assets" shall mean--

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature.

Explanation 4.-- For the purposes of this sub-section, the expression "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto);

(d) after clause (ii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:--

(iii) in the case of any building, machinery, plant or furniture in respect of which depreciation is claimed and allowed under clause (i) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof;

Provided that such deficiency is actually written off in the books of the assessee.

Explanation.-- For the purposes of this clause,--

(1) "moneys payable" in respect of any building, machinery, plant or furniture includes--

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold.

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company;

(e) in the fourth proviso, after the words "referred to in", the words, brackets and figures "clause (xiii) and clause (xiv) of section 47 or" shall be inserted with effect from the 1st day of April, 1999.