

Finance (No. 2) Act, 1998

Section 31 - Insertion of New Section 80-hhba

After section 80-HHB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:--

"80-HHBA. Deduction in respect of profits and gains from housing projects in certain cases.-- (1) Where the gross total income of an assessee being an Indian company or a person (other than a company) who is a resident in India includes any profits and gains derived from the execution of a housing project awarded to the assessee on the basis of global tender and such project is aided by the World Bank, there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to fifty per cent thereof.

(2) The deductions under this section shall be allowed only if the following conditions are fulfilled, namely:--

(i) the assessee maintains separate accounts in respect of the profits and gains derived from the business of the execution of the housing project undertaken by him and, where the assessee is a person other than an Indian company or a co-operative society, such accounts 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;

(ii) an amount equal to fifty per cent, of the profits and gains referred to in sub-section (1) is debited to the profits and loss account of the previous year in respect of which the deduction under this section is to be allowed and credited to a reserve account (to be called the Housing Projects Reserve Account) to be utilized by the assessee during a period of five years next following for the purposes of his business other than for distribution by way of dividends or profit.

Provided that where the amount credited by the assessee to the Housing Projects Reserve Account in pursuance of clause (ii) is less than fifty per cent of the profits and gains referred in sub-section (1) the deduction under this section shall be limited to the amount so credited in pursuance of clause (ii).

(3) If at any time before the expiry of five years from the end of the previous year in which the deduction under sub-section (1) is allowed, the assessee utilises the amount credited to the Housing Projects Reserve Account for distribution by way of dividends or profit or for any other purpose which is not a purpose of the business of the assessee, the deduction originally allowed under sub-section (1) shall be deemed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment and the provision 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 previous year in which the money was so utilised.

(4) Notwithstanding anything contained in any other provision of this Chapter under heading "C".-- Deduction in respect of certain incomes," no part of the Income payable to the assessee for

the execution of a housing project under sub-section (1) shall qualify for deduction for any assessment year under any other provision.

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

(a) "housing project" means a project for--

(i) the construction of any building, road, bridge or other structure in any part of India;

(ii) the execution of such other work (of whatever nature) as may be prescribed;

(b) "World Bank" means the International Bank for Reconstruction and Development Bank referred to in the International Monetary Fund and Bank Act, 1945;