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The Code on Wages

Section 36 - (7) For the sixth and seventh accounting years following the accounting year in which the employer sells the goods

(i) for the sixth accounting year set on or set off, as the case may be, shall be made, in the manner as may be prescribed by the Central Government, taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth and sixth accounting years; (ii) for the seventh accounting year set on or set off, as the case may be, shall be made, in the manner as may be prescribed by the Central Government, taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth, sixth and seventh accounting years. (8) From the eighth accounting year following the accounting year in which theemployer sells the goods produced or manufactured by him or renders services, as the casemay be, from such establishment, the provisions of section 36 shall apply in relation to suchestablishment as they apply in relation to any other establishment. Explanation 1.For the purpose of sub-section (6), an employer shall not be deemedto have derived profit in any accounting year, unless (a) he has made provision for depreciation of that year to which he is entitled under the Income-tax Act or, as the case may be, under the agricultural income tax law; and (b) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against his profits. Explanation 2.For the purposes of sub-sections (6), (7) and (8), sale of the goodsproduced or manufactured during the course of the trial running of any factory or of the 14 THE GAZETTE OF INDIA EXTRAORDINARY [PART II prospecting stage of any mine or an oil-field shall not be taken into consideration and where any question arises with regard to such production or manufacture, the appropriate Government may, after giving the parties a reasonable opportunity of representing the case, decide upon the issue. (9) The provisions of sub-sections (6), (7) and (8) shall, so far as may be, apply to new departments or undertakings or branches set up by existing establishments.Proportionate

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