Finance (No. 2) Act, 1980

Section 17 - Amendment of Section 80j

In section 80J of the Income-tax Act, -

(a) in sub-section (1), for the words "computed in the prescribed manner", the words, brackets, figure and letter "computed in the manner specified in sub-section (1A)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1972;

(b) after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1972, namely :-

'(1A) (I) For the purposes of this section, the capital employed in an industrial undertaking or the business of a hotel shall, except as otherwise expressly provided in this section, be computed in according with clauses (II) to (IV) and the capital employed in a ship shall be computed in accordance with clause (V).

(II) The aggregate of the amounts representing the values of the assets as on the first day of the computation period of the undertaking or of the business of the hotel to which this section applies shall first be ascertained in the following manner :-

(i) in the case of assets entitled to depreciation, their written down value;

(ii) in the case of assets acquired by purchase and not entitled to depreciation, their actual cost to the assessee;

(iii) in the case of assets acquired otherwise than by purchase and not entitled to depreciation, the value of the assets when they became assets of the business;

(iv) in the case of assets, being debts due to the person carrying on the business, the nominal amount of those debts;

(v) in the case of assets, being cash in hand or bank, the amount thereof.

Explanation 1 : In this clause, "actual cost" has the same meaning as in clause (1) of section 43.

Explanation 2 : In this clause and in clause (III), "computation period" means the period for which profits and gains of the industrial undertaking or business of the hotel are computed under sections 28 to 43A.

Explanation 3 : In this clause and in clause (V), "written down value" has the same meaning as in clause (6) of section 43.

Explanation 4 : Where the cost of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the actual cost of the asset.

(III) From the aggregate of the amounts as ascertained under clause (II) shall be deducted the aggregate of the amounts, as on the first day of the computation period, of borrowed moneys and debts owed by the assessee (including amounts due towards any liability in respect of tax).

Explanation : For the purposes of this clause, -

(i) "tax" means -

(a) income-tax or super-tax (including advance tax) due under any provision of this Act;

(b) wealth-tax due under any provision of the Wealth-tax Act, 1957 (27 of 1957);

(c) gift-tax due under any provision of the Gift-tax Act, 1958 (18 of 1958);

(d) super profits tax due under any provision of the Super Profits Tax Act, 1963 (14 of 1963);

(e) surtax due under any provision of the Companies (Profits) Surtax Act, 1964 (7 of 1964);

(ii) any liability in respect of tax shall be deemed to have become due -

(a) in the case of advance tax due under any provision of this Act, on the date on which such advance tax is payable; and

(b) in the case of any other tax, on the first day of the period within which it is required to be paid.

(IV) The resultant sum as determined under clause (III) shall be diminished by the value, as ascertained under clause (II), of any investments the income from which is not taken into account in computing the profits of the business and any moneys not required for the purpose of the business, in so far as the aggregate of such investments or moneys exceed the amount of the borrowed moneys which under clause (III) are required to be deducted in computing the capital.

(V) The capital employed in a ship shall be taken to be the written down value of the ship as reduced by the aggregate of the amounts owed by the assessee as on the computation date on account of moneys borrowed or debts incurred in acquiring that ship.

Explanation : In this clause, "computation date" in relation to a ship, means -

(a) in respect of the previous year in which the ship is first brought into use, the date on which it is so brought into use;

(b) in respect of any subsequent previous year, the first day of such previous year.'.