Finance Act, 1988

Section 43C - Special provision for computation of cost of acquisition of certain assets

1989. Section 8 - Amendment Of Section 14 In section 14 of the Income-tax Act, the letter and words "B. - Interest on securities." shall be omitted with effect from the 1st day of April, 1989. Section 9 - Amendment Of Section 16 In section 16 of the Income-tax Act, in clause (i), for the portion beginning with the words "a sum equal to" and ending with the words "whichever is less", the following shall be substituted with effect from the 1st day of April, 1989, namely :- "a sum equal to thirty-three and one-third per cent. of the salary or twelve thousand rupees, whichever is less.". Section 10 - Omission Of Sections 18 To 21 Sections 18 to 21 of the Income-tax Act and the sub-heading "'B. - Interest on securities"' above section 18 shall be omitted with effect from the 1st day of April, 1989. Section 11 - Amendment Of Section 40 In section 40 of the Income-tax Act, with effect from the 1st day of April, 1989, - (i) in clause (a), for sub-clause (i), the following sub-clause shall be substituted, namely :- '(i) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable outside India, on which tax has not been paid or deducted under Chapter XVII-B : Provided that where in respect of any such sum, tax has been paid or deducted under Chapter XVII-B in any subsequent year, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid or deducted. Explanation : For the purposes of this sub-clause, - (A) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9; (B) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;'; (ii) clause (d) shall be omitted. Section 12 - Amendment Of Section 43B In section 43B of the Income-tax Act [as amended by section 15 of the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988)], with effect from the 1st day of April, 1989, - (i) for clause (a), the following clause shall be substituted, namely :- "(a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or"; (ii) in clause (c), the word "or" shall be inserted at the end; (iii) after clause (c), the following clause shall be inserted, namely :- "(d) any sum payable by the assessee as interest on any loan or borrowing from any public financial institution, in accordance with the terms and conditions of the agreement governing such loan or borrowing."; (iv) in the first proviso, after the word, brackets and letter "clause (c)", the words, brackets and letter "or clause (d)" shall be inserted; (v) in Explanation 2, after the word, brackets and letter "clause (c)", the words, brackets and letter "or clause (d)" shall be inserted; (vi) after Explanation 2, the following Explanation shall be inserted, namely :- 'Explanation 3 : For the purposes of this section, the expression "public financial institution" shall have the meaning assigned to it section 4A of the Companies Act, 1956 (1 of 1956).'. Section 13 - Insertion Of New Section 43C After section 43B of the Income-tax Act, the following section shall be inserted, namely :- (1) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of an amalgamated company under a scheme of amalgamation, is sold after the 29th day of February, 1988, by the amalgamated company as stock-in-trade of the business carried on by it, the cost of acquisition of the said asset to the amalgamated company in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the amalgamating company, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer by the amalgamating company. (2) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of the assessee on the total or partial partition of a Hindu undivided family or under a gift or will or an irrevocable trust, is sold after the 29th day of February, 1988, by the assessee as stock-in-trade of the business carried on by him, the cost of acquisition of the said asset to the assessee in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the transferor or the donor, as the case may be, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer (by way of effecting the partition, acceptance of the gift, obtaining probate in respect of the will or the creation of the trust), including the payment of gift-tax, if any, incurred by the transferor or the donor, as the case may be. Section 14 - Amendment Of Section 44AB In section 44AB of the Income-tax Act, with effect from the 1st day of April, 1989, - (a) in clause (a) and (b), the words, figures and letters "or years relevant to the assessment year commencing on the 1st day of April, 1985, or any subsequent assessment year" shall be omitted; (b) for the words "such previous year or years", the words "such previous year" shall be substituted; (c) in the Explanation, for clause (ii), the following clause shall be substituted, namely :- '(ii) "specified date", in relation to the accounts of the previous year relevant to an assessment year means, - (a) where the assessee is a company, the 31st day of December of the assessment year; (b) in any other case, the 31st day of October of the assessment year.'. Section 15 - Insertion Of New Section 44AC After section 44AB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1989, namely :- '44AC. Special provision for computing profits and gains from the business of trading in certain goods. -(1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee, being a person other than a public sector company (hereafter in this section referred to as the buyer), obtaining in any sale by way of auction, tender or any other mode, conducted by any other person or his agent (hereafter in this section referred to as the seller), - (a) any goods in the nature of alcoholic liquor for human consumption (other than Indian made foreign liquor), a sum equal to forty per cent. of the amount paid or payable by the buyer as the purchase price in respect of such goods shall be deemed to be the profits and gains of the buyer from the business of trading in such goods chargeable to tax under the head "Profits and gains of business or profession"; (b) the right to receive any goods of the nature specified in column (2) of the Table below, or such goods, as the case may be, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of the amount paid or payable by the buyer in respect of the sale of such right or as the purchase price in respect of such goods shall be deemed to be the profits and gains of the buyer from the business of trading in such goods chargeable to tax under the head "Profits and gains of business or profession". TABLES.No.Nature of goodsPercentage(1)(2)(3) (i) Timber obtained under a forest lease Thirty-five per cent. (ii) Timber obtained by any mode other than under a forest lease Fifteen per cent. (iii) Any other forest produce not being Thirty-five per cent. Timber (2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall not apply to buyer (other than a buyer who obtains any goods from any seller which is a public sector company) in the further sale of any goods obtained under or in pursuance of the sale under sub-section (1). (3) In a case where the business carried on by the assessee does not consist exclusively of trading in goods to which this section applies and where separate accounts are not maintained or are not available, the amount of expenses attributable to such other business shall be an amount which bears to the total expenses of the business carried on by the assessee the same proportion as the turnover of such other business bears to the total turnover of the business carried on by the assessee. Explanation : For the purposes of this section, "seller" means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm.' Section 16 - Amendment Of Section 44BB In section 44BB of the Income-tax Act, in sub-section (1), in the opening paragraph, for the words "in the case of an assessee", the words "in the case of an assessee, being a non-resident," shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April,