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असाधारण

EXTRAORDINARY

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PART II — Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 14th May, 2016/Vaisakha 24, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 14th May, 2016, and is hereby published for general information:—

THE FINANCE ACT, 2016
No. 28 OF 2016

[14th May, 2016.]

An Act to give effect to the financial proposals of the Central Government for the financial year 2016-2017.

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 2016.

Short title and commencement.

(2) Save as otherwise provided in this Act, sections 2 to 115 shall be deemed to have come into force on the 1st day of April, 2016.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2016, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

Income-tax.

asset shall be deemed to be the fair market value of the asset which has been taken into account for the purposes of the said Scheme.”.

31. In section 50C of the Income-tax Act, in sub-section (1), the following provisos shall be inserted with effect from the 1st day of April, 2017, namely:—

Amendment of section 50C.

“Provided that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer:

Provided further that the first proviso shall apply only in a case where the amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of the agreement for transfer.”.

32. After section 54ED of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

Insertion of new section 54EE.

‘54EE. (1) Where the capital gain arises from the transfer of a long-term capital asset (herein in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section, namely:—

Capital gain not to be charged on investment in units of a specified fund.

(a) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45;

Provided that the investment made on or after the 1st day of April, 2016, in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees:

Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from the transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.

(2) Where the long-term specified asset is transferred by the assessee at any time within a period of three years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head “Capital gains” relating to long-term capital asset of the previous year in which the long-term specified asset is transferred.

Explanation 1.—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have transferred such specified asset on the date on which such loan or advance is taken.

Explanation 2.—For the purposes of this section,—

(a) “cost”, in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;

(b) “long-term specified asset” means a unit or units, issued before the 1st day of April, 2019, of such fund as may be notified by the Central Government in this behalf.”.

Amendment of section 54GB.

33. In section 54GB of the Income-tax Act, with effect from the 1st day of April, 2017,—

(a) after sub-section (5), the following proviso shall be inserted, namely:—

“Provided that in case of an investment in eligible start-up, the provisions of this sub-section shall have the effect as if for the figures, letters and words “31st day of March, 2017”, the figures, letters and words “31st day of March, 2019” had been substituted;”;

(b) in sub-section (6),—

(i) in clause (b),—

(A) in sub-clause (ii), after the words “an article or a thing”, the words “or in an eligible business” shall be inserted;

(B) in sub-clause (iv), after the words and figures “Micro, Small and Medium Enterprises Act, 2006”, the words “or is an eligible start-up” shall be inserted;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(ba) “eligible start-up” and “eligible business” shall have the meanings respectively assigned to them in *Explanation* below sub-section (4) of section 80-IAC.”;

(iii) after clause (d), the following proviso shall be inserted, namely:—

“Provided that in the case of an eligible start-up, being a technology driven start-up so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the Official Gazette, the new asset shall include computers or computer software.”.

27 of 2006.

Amendment of section 55.

34. In section 55 of the Income-tax Act, with effect from the 1st day of April, 2017,—

(i) in sub-section (1), in clause (b), in sub-clause (1), after the words “any business”, the words “or profession” shall be inserted;

(ii) in sub-section (2), in clause (a), after the words “any business”, the words “or profession” shall be inserted.

Amendment of section 56.

35. In section 56 of the Income-tax Act, in sub-section (2), in clause (vii), in the second proviso occurring after sub-clause (c), with effect from the 1st day of April, 2017,—

(a) in clause (g), for the word, figures and letters “section 12AA”, the words, figures and letters “section 12AA; or” shall be substituted;

(b) after clause (g), the following clause shall be inserted, namely:—

“(h) by way of transaction not regarded as transfer under clause (vicb) or clause (vid) or clause (vii) of section 47.”.

Amendment of section 80.

36. In section 80 of the Income-tax Act, after the words, brackets and figures “sub-section (2) of section 73”, the words, brackets, figures and letter “or sub-section (2) of section 73A” shall be inserted.

Amendment of section 80CCD.

37. In section 80CCD of the Income-tax Act, in sub-section (3), the following proviso shall be inserted with effect from the 1st day of April, 2017, namely:—

“Provided that the amount received by the nominee, on the death of the assessee, under the circumstances referred to in clause (a), shall not be deemed to be the income of the nominee.”.

Insertion of
new section
80-IAC.

Special
provision in
respect of
specified
business.

42. After section 80-IAB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

‘80-IAC. (1) Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, 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 of an amount equal to one hundred per cent. of the profits and gains derived from such business for three consecutive assessment years.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any three consecutive assessment years out of five years beginning from the year in which the eligible start-up is incorporated.

(3) This section applies to a start-up which fulfils the following conditions, namely:—

(i) it is not formed by splitting up, or the reconstruction, of a business already in existence;

Provided that this condition shall not apply in respect of a start-up which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in that section;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation 1.— For the purposes of this clause, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely:—

(a) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(b) such machinery or plant is imported into India;

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2.—Where in the case of a start-up, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (ii) of this sub-section, the condition specified therein shall be deemed to have been complied with.

(4) The provisions of sub-section (5) and sub-sections (7) to (11) of section 80-IA shall apply to the start-ups for the purpose of allowing deductions under sub-section (1).

Explanation.—For the purposes of this section,—

(i) “eligible business” means a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property;

(ii) “eligible start-up” means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:—

(a) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2019;

(b) the total turnover of its business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021;

(c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government; and

(iii) "limited liability partnership" means a partnership referred to in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008.

6 of 2009.

43. In section 80-IB of the Income-tax Act, in sub-section (9), with effect from the 1st day of April, 2017,—

Amendment of section 80-IB.

(a) in clause (ii), after the words, figures and letters "the 1st day of April, 1997", the words, figures and letters "but not later than the 31st day of March, 2017" shall be inserted;

(b) in clause (iv), after the words, figures and letters "the 1st day of April, 2009", the words, figures and letters "but not later than the 31st day of March, 2017" shall be inserted;

(c) in clause (v), after the words, figures and letters "the 1st day of April, 2009", the words, figures and letters "but not later than the 31st day of March, 2017" shall be inserted.

44. After section 80-IB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

Insertion of new section 80-IBA.

'80-IBA. (1) Where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to the provisions of this section, be allowed, a deduction of an amount equal to hundred per cent. of the profits and gains derived from such business.

Deductions in respect of profits and gains from housing projects.

(2) For the purposes of sub-section (1), a housing project shall be a project which fulfils the following conditions, namely:—

(a) the project is approved by the competent authority after the 1st day of June, 2016, but on or before the 31st day of March, 2019;

(b) the project is completed within a period of three years from the date of approval by the competent authority:

Provided that,—

(i) where the approval in respect of a housing project is obtained more than once, the project shall be deemed to have been approved on the date on which the building plan of such housing project was first approved by the competent authority; and

(ii) the project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority;

(c) the built-up area of the shops and other commercial establishments included in the housing project does not exceed three per cent. of the aggregate built-up area;

(d) the project is on a plot of land measuring not less than—

(i) one thousand square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the distance, measured aerially, of twenty-five kilometres from the municipal limits of these cities; or

(ii) two thousand square metres, where the project is located in any other place;

(e) the project is the only housing project on the plot of land as specified in clause (d);

(f) the built-up area of the residential unit comprised in the housing project does not exceed—

(i) thirty square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the distance, measured aerially, of twenty-five kilometres from the municipal limits of these cities; or