

A COMPLETE ANALYSIS OF THE FINANCE ACT, 2013

PART - III

(Chapter VI-A of the IT Act)

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4. CHAPTER VI-A – Deductions

a. Proviso to Section 80C (3A): Expansion of the scope for deduction in respect of Life Insurance Premia by 15% to persons referred in Sections 80U and 80DDB

Amendment:

In section 80C of the Income-tax Act, in sub-section (3A), before the Explanation, the following proviso shall be inserted with effect from the 1st day of April, 2014, namely:—

‘Provided that where the policy, issued on or after the 1st day of April, 2013, is for insurance on life of any person, who is—

(a) a person with disability or a person with severe disability as referred to in section 80U, or

(b) suffering from disease or ailment as specified in the rules made under section 80DDB, the provisions of this sub-section shall have effect as if for the words “ten per cent.”, the words “fifteen per cent.” had been substituted.’.

Analysis:

Under the existing provisions contained in sub-section (10D) of section 10, any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, is exempt, subject to the condition that the premium paid for such policy does not exceed *ten per cent of the ‘actual capital sum assured’*. Similarly as per the existing provisions contained in sub-section (3A) of section 80C, the deduction under the said section is available in respect of any premium or other payment made on an insurance policy of up to *ten per cent of the ‘actual capital sum assured’*.

The above limit of ten per cent was introduced through the Finance Act, 2012 and applies to policies issued on or after 1st April, 2012. Some insurance policies for persons with disability or suffering from specified diseases provide for an annual premium of more than ten per cent of the actual capital sum assured. Due to the limit of ten per cent, these policies are ineligible for exemption under clause (10D) of section

10. Moreover, the deduction under section 80C is eligible only to an extent of the premium paid up to 10 % of the 'actual capital sum assured'.

It is proposed to provide that any sum including the sum allocated by way of bonus received under an insurance policy issued on or after 01.04.2013 for the insurance on the life of any person who is

- a person with disability or a person with severe disability as referred to in section 80U, or
- suffering from disease or ailment as specified in the rules made under section 80DDB, shall be exempt under clause (10D) of section 10 if the premium payable for any of the years during the term of the policy does not exceed 15% of the actual capital sum assured.

It is also proposed to amend sub-section (3A) of section 80C so as to provide that the deduction under the said section on account of premium paid in respect of a policy issued on or after 01.04.2013 for insurance on the life of a person referred to above shall be allowed to the extent the premium paid does not exceed 15% of the actual capital sum assured.

This amendment will take effect from 1st April, 2014.

[SECTION 12 OF THE FINANCE ACT, 2013]

b. Section 80CCG: Expansion of the scope for deduction under the Rajiv Gandhi Equity Savings Scheme

Amendment:

In section 80CCG of the Income-tax Act, with effect from the 1st day of April, 2014,—
(a) in sub-section (1),—

(i) after the words “acquired listed equity shares”, the words “or listed units of an equity oriented fund” shall be inserted;

(ii) after the words “in such equity shares”, the words “or units” shall be inserted; (b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The deduction under sub-section (1) shall be allowed in accordance with, and subject to, the provisions of this section for three consecutive assessment years, beginning with the assessment year relevant to the previous year in which the listed equity shares or listed units of equity oriented fund were first acquired.”;

(c) in sub-section (3),—

(A) in clause (i), for the words “ten lakh rupees”, the words “twelve lakh rupees” shall be substituted;

(B) in clause (iii), after the words “listed equity shares”, the words “or listed units of equity oriented fund” shall be inserted;

(d) after sub-section (4), the following Explanation shall be inserted, namely:—

‘Explanation.—For the purposes of this section, “equity oriented fund” shall have the meaning assigned to it in the Explanation to clause (38) of section 10.’

Analysis:

As per existing provision of Section 80CCG, a resident individual, who has acquired listed equity shares in accordance with Rajiv Gandhi Equity Savings Scheme (‘RGESS’), shall be allowed a deduction of 50% of the amount invested in such equity shares or 25,000/-, whichever is lower. The deduction is a one-time deduction and is available only in one assessment year in respect of the amount so invested. The deduction is available to a new retail investor whose gross total income is not more than 10 lakhs.

With a view to liberalize the aforesaid incentive, it is proposed to amend the provisions of Section 80CCG so as to provide for the following:

- Investment in listed units of an equity oriented fund [as defined in Section 10(38) of the IT Act] shall also be eligible for deduction under this section;
- Deduction under this section shall be *allowed for 3 consecutive assessment* years beginning with the assessment year in which the listed equity shares or listed units were first acquired;
- The deduction is available to a new retail investor whose gross total income in *relevant assessment year does not exceeds 12,00,000/-*.

This amendment will take effect from 1st April, 2014.

[SECTION 13 OF THE FINANCE ACT, 2013]

c. Section 80D: Deduction in respect of health insurance premia expanded to other schemes

Amendment:

In section 80D of the Income-tax Act, in sub-section (2), in clause (a), after the words “Central Government Health Scheme”, the words “or such other scheme as may be notified by the Central Government in this behalf” shall be inserted with effect from the 1st day of April, 2014.

Analysis:

The existing provisions of section 80D, inter alia, provide that the whole of the amount paid in the previous year out of the income chargeable to tax of the assessee, being an individual, to effect or to keep in force an insurance on his health or the health of the family or any contribution made towards the Central Government Health Scheme (CGHS) or any payment made on account of preventive health check-up of the assessee or his family, as does not exceed in the aggregate fifteen thousand rupees, is allowed to be deducted in computing the total income of the assessee.

It has been noticed that there are other health schemes of the Central and State Governments, which are similar to the CGHS but no deduction for such schemes is available to the subscribers of such schemes.

In order to bring such schemes at par with the CGHS, it is proposed to amend section 80D, so as to allow the benefit of deduction under this section within the said limit, in respect of any payment or contribution made by the assessee to such other health scheme as may be notified by the Central Government. This amendment will take effect from 1st April, 2014.

[SECTION 14 OF THE FINANCE ACT, 2013]

d. Section 80EE: Deduction in respect of interest on housing loan to first time home buyers

Amendment:

After section 80E of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2014, namely:—

‘80EE. (1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property.

(2) The deduction under sub-section (1) shall not exceed one lakh rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2014 and in a case where the interest payable for the previous year relevant to the said assessment year is less than one lakh rupees, the balance amount shall be allowed in the assessment year beginning on the 1st day of April, 2015.

(3) The deduction under sub-section (1) shall be subject to the following conditions, namely:—

(i) the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2013 and ending on the 31st day of March, 2014;

(ii) the amount of loan sanctioned for acquisition of the residential house property does not exceed twenty-five lakh rupees;

(iii) the value of the residential house property does not exceed forty lakh rupees;

(iv) the assessee does not own any residential house property on the date of sanction of the loan.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

(5) For the purposes of this section,—

(a) “financial institution” means a banking company to which the Banking Regulation Act, 1949 applies including any bank or banking institution referred to in section 51 of that Act or a housing finance company;

(b) “housing finance company” means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.’

Analysis:

Section 80EE is proposed to be inserted for Additional Deduction in respect of interest on loan sanctioned during financial year 2013-14 for acquiring residential house property.

- **Allowability of deduction:-**

- Amount of interest paid subject to maximum of Rs.1 Lac in AY 2014-15;

– Amount of interest payable for the subsequent years is less than one lakh rupees, the balance amount shall be allowed in the AY 2015-16.

○ **Conditions:-**

– Loan must be sanctioned during the period from 1st April, 2013 and ending on 31st March, 2014

– The amount of home loan does not exceed Rs.25 Lacs;

– The value of the residential house property does not exceed Rs.40 Lacs

– the Assessee does not own any residential house property on the date of sanction of the loan, this must be the first house.

[SECTION 15 OF THE FINANCE ACT, 2013]

e. Section 80G: 100% Deduction for donation to National Children’s Fund

Amendment:

In section 80G of the Income-tax Act, in sub-section (1), in clause (i), after the words, brackets, figures and letters “or in sub-clause (iiiab)”, the words, brackets, figures and letter “or in sub-clause (iiib)” shall be inserted with effect from the 1st day of April, 2014.

Analysis:

Under the existing provisions of section 80G an assessee is allowed a deduction from his total income in respect of donations made by him to certain funds and institutions. The deduction is allowed at the rate of fifty per cent of the amount of donations made except in the case of donations made to certain funds and institutions specified in clause (i) of sub-section (1) of section 80G, where deduction is allowed at the rate of one hundred per cent. In the case of donations made to the National Children’s Fund, deduction is allowed at the rate of fifty per cent of the amount so donated.

Donations to Funds which are of national importance have been generally provided a deduction of one hundred per cent of the amount donated.

Since the National Children’s Fund is also a Fund of national importance, it is proposed to allow hundred per cent deduction in respect of any sum paid to the Fund in computing the total income of an assessee. This amendment will take effect from 1st April, 2014.

f. Sections 80GGB & 80GGC: Withdrawal of claiming of deduction for Cash Payments

Amendment:

In section 80GGB of the Income-tax Act, before the Explanation, the following proviso shall be inserted with effect from the 1st day of April, 2014, namely:—

“Provided that no deduction shall be allowed under this section in respect of any sum contributed by way of cash.”.

In section 80GGC of the Income-tax Act, before the Explanation, the following proviso shall be inserted with effect from the 1st day of April, 2014, namely:—

“Provided that no deduction shall be allowed under this section in respect of any sum contributed by way of cash.”.

Analysis:

Under the existing provisions of section 80GGB, any sum contributed by an Indian company to any political party or an electoral trust in the previous year, is allowed as deduction in computing the total income of such Indian company. A similar deduction is available to an assessee, being any person other than local authority and artificial juridical person under section 80GGC. There is no specific mode provided for making such contribution. With a view to discourage cash payments by the contributors, it is proposed to amend the provisions of aforesaid sections, so as to provide that no deduction shall be allowed under section 80GGB and 80GGC in respect of any sum contributed by way of cash.

This amendment will take effect from 1st April, 2014 and will, accordingly, apply in relation to the assessment year 2014-15 and subsequent assessment years.

No deduction for Cash Payments u/s 80GGB & 80GGC

- With a view to discourage cash payments by the contributors
- No deduction shall be allowed in respect of cash contributions under above sections

g. Section 80-IA (4): Extension of sunset clause for power companies

Amendment:

In section 80-IA of the Income-tax Act, in sub-section (4), in clause (iv), for the words, figures and letters “the 31st day of March, 2013”, wherever they occur, the words, figures and letters “the 31st day of March, 2014” shall respectively be substituted with effect from the 1st day of April, 2014.

Analysis:

Under the existing provisions of Section 80IA (4) (iv), a deduction from the profits and gains is allowed to an undertaking which:

- Is set up for the generation and distribution of power, if it begins to generate power at any time during the period beginning on 1st April 1993 and ending on 31st March, 2013;
- Starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1st April, 1999 and ending on 31st March, 2013;
- Undertakes substantial renovation and modernization of the existing network of transmission or distributions lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2013.

With a view to provide further time to the undertakings to commence the eligible activity to avail the tax incentive, it is proposed to amend the above provisions so as to extend the terminal date by a further period of one year i.e. up to 31st March, 2014.

This amendment will take effect from 1st April, 2014 and will, accordingly, apply for assessment year 2014-15 and subsequent assessment years.

[SECTION 19 OF THE FINANCE ACT, 2013]

h. Section 80JJAA: Restriction of deduction for additional wages

Amendment:

In section 80JJAA of the Income-tax Act, with effect from the 1st day of April, 2014,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where the gross total income of an assessee, being an Indian company, includes any profits and gains derived from the manufacture of goods in a factory, there shall, subject to the conditions specified in sub-section (2), be

allowed a deduction of an amount equal to thirty per cent. of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.”;

(ii) in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

“(a) if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company;”;

(iii) in the Explanation,—

(a) in clause (i), in the proviso, for the word “undertaking” at both the places where it occurs, the word “factory” shall be substituted;

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

‘(iv) “factory” shall have the same meaning as assigned to it in clause (m) of section 2 of the Factories Act, 1948.’

Analysis:

Section 80JJAA was introduced to facilitate generation of new employment opportunities. The assessee who is an Indian company in the business of industrial undertaking engaged in the manufacture or production of article or thing, is allowed a deduction (subject to certain conditions) in respect of thirty percent of additional wages paid to the new regular workmen employed by the assessee in the previous year.

The deduction is allowed for three assessment years including the assessment year relevant to the previous year in which such employment is provided. The amendment vide Finance Bill, 2013 has substituted the word ‘**undertaking**’ with ‘**factory**’.

The amendment has its roots to the decision of Bangalore Tribunal’s decision in **Asst. CIT v. Texas Instruments (India) (P.) Ltd. [2009] 27 SOT 72(Bang.)(URO)**, where, the Tribunal allowed deduction u/s. 80JJAA to the assessee engaged in business of software development in respect of salary paid to new employees being software engineers, because the assessee was covered by the Industrial Disputes Act, 1947 as per notification of the Karnataka Government.

The deduction under section 80JJAA was introduced to enhance the employment of blue collared employees in the manufacturing sector. However, it was noticed that companies are claiming the benefit for other employees in other sectors as well. The restriction in the scope of deduction is in line with the true intent with which the benefit was introduced

The proposed amendment will take effect from AY 2014-15 (FY 2013-14)

Cases referred:

Asst. CIT v. Texas Instruments (India) (P.) Ltd. [2009] 27 SOT 72(Bang.)(URO)

The employees of the appellant are 'workmen' for the purposes of section 80JJAA and the appellant is eligible for deduction under section 80JJAA.

[SECTION 20 OF THE FINANCE ACT, 2013]