

CHAPTER XII-BB

SPECIAL PROVISIONS RELATING TO CONVERSION OF INDIAN BRACH OF A FOREIGN BANK INTO A SUBSIDIARY COMPANY

115JG (1) Where a foreign company is engaged in the business of banking in India through its branch situate in India and such branch is converted into a subsidiary company thereof, being an Indian company (hereafter referred to as an Indian subsidiary company) in accordance with the scheme framed by the Reserve Bank on India, then, notwithstanding anything contained in the Act and subject to the conditions as may be notified by the Central Government in this behalf, -

- (i) The capital gains arising from such conversion shall not be chargeable to tax in the assessment year relevant to the previous year in which such conversion takes place;
- (ii) The provisions of this Act relating to the treatment of unabsorbed depreciation, set-off or carry forward and set-off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in the case of the foreign company and Indian subsidiary company shall apply with such exceptions, modifications and adaptations as may be specified in that notification;

(2) in case of failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section(1), all the provisions of this Act shall apply to the foreign company and the said Indian subsidiary company without any benefit, exemption or relief under sub-section(1).

(3) Where, in a previous year, any benefit, exemption or relief has been claimed and granted to the foreign company or the Indian subsidiary company in accordance with the provisions of sub-section (1) and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (1), then-

- (i) such benefit, exemption or relief shall be deemed to have been wrongly allowed;
- (ii) the Assessing Officer may, notwithstanding anything contained in this Act, recomputed the total income of the assessee for the said previous years and make the necessary amendment; and
- (iii)The provisions of Section 154 shall, so far as maybe, apply thereto and the period of four years specified in sub-section (7) of that section being the reckoned from the end of the previous year in which the failure to comply with the conditions referred to in sub-section (1) takes place.

(4) Every notification issued under this section shall be laid before each House of Parliament;”