

## Depreciation.

### 32. (1) [In respect of depreciation of—

- (i) buildings, machinery, plant or furniture, being tangible assets;
- (ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998,

owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed—]

[(i) in the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed;]

- (ii) [in the case of any block of assets, such percentage on the written down value thereof as may be prescribed:]

[\*\*\*]

**[Provided** [\*\*\*] that no deduction shall be allowed under this clause in respect of—

- (a) any motor car manufactured outside India, where such motor car is acquired by the assessee after the 28th day of February, 1975 [but before the 1st day of April, 2001], unless it is used—

- (i) in a business of running it on hire for tourists ; or

- (ii) outside India in his business or profession in another country ; and

- (b) any machinery or plant if the actual cost thereof is allowed as a deduction in one or more years under an agreement entered into by the Central Government under section 42 :]

**[Provided further** that where an asset referred to in clause (i) or clause (ii) [or clause (iia)]<sup>1</sup> or the first proviso to clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent of the amount calculated at the percentage prescribed for an asset under clause (i) or clause (ii) [or clause (iia)], as the case may be :]

<sup>2</sup>**Provided also** that where an asset referred to in clause (iia) or the first proviso to clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than one hundred and eighty days in that previous year, and the deduction under this sub-section in respect of such asset is restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (iia) for that previous year, then, the deduction for the balance fifty per cent. of the amount calculated at the percentage prescribed for such asset under clause (iia) shall be allowed under this sub-section in the immediately succeeding previous year in respect of such asset;

**[Provided also** that where an asset being commercial vehicle is acquired by the assessee on or after the 1st day of October, 1998 but before the 1st day of April, 1999 and is put to use

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<sup>1</sup> Inserted with effect from April 1, 2016

<sup>2</sup> Inserted with effect from April 1, 2016

before the 1st day of April, 1999 for the purposes of business or profession, the deduction in respect of such asset shall be allowed on such percentage on the written down value thereof as may be prescribed.

*Explanation.*—For the purposes of this proviso,—

- (a) the expression “commercial vehicle” means “heavy goods vehicle”, “heavy passenger motor vehicle”, “light motor vehicle”, “medium goods vehicle” and “medium passenger motor vehicle” but does not include “maxi-cab”, “motor-cab”, “tractor” and “road-roller” ;
- (b) the expressions “heavy goods vehicle”, “heavy passenger motor vehicle”, “light motor vehicle”, “medium goods vehicle”, “medium passenger motor vehicle”, “maxi-cab”, “motor-cab”, “tractor” and “road roller” shall have the meanings respectively as assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988):]

**[Provided also** that, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1991, the deduction in relation to any block of assets under this clause shall, in the case of a company, be restricted to seventy-five per cent of the amount calculated at the percentage, on the written down value of such assets, prescribed under this Act immediately before the commencement of the Taxation Laws (Amendment) Act, 1991:]

**[Provided also** that the aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture, being tangible assets or know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets allowable to the predecessor and the successor in the case of succession referred to in [clause (xiii), clause (xiiib) and clause (xiv)] of section 47 or section 170 or to the amalgamating company and the amalgamated company in the case of amalgamation, or to the demerged company and the resulting company in the case of demerger, as the case may be, shall not exceed in any previous year the deduction calculated at the prescribed rates as if the succession or the amalgamation or the demerger, as the case may be, had not taken place, and such deduction shall be apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, or the demerged company and the resulting company, as the case may be, in the ratio of the number of days for which the assets were used by them.]

*[Explanation 1.*—Where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of this clause shall apply as if the said structure or work is a building owned by the assessee.

*Explanation 2.*—For the purposes of this [sub-section] “written down value of the block of assets” shall have the same meaning as in clause (c) of sub-section (6) of section 43.]

*[Explanation 3.*—For the purposes of this sub-section, [the expression “assets” ] shall mean—

- (a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature.

*Explanation 4.*—For the purposes of this sub-section, the expression “know-how” means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto).

[*Explanation 5.*—For the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income;]

[(*ia*) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing [or in the business of generation or generation and distribution of power], a further sum equal to twenty per cent of the actual cost of such machinery or plant shall be allowed as deduction under clause (*ii*):

<sup>3</sup>**Provided** that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, the provisions of clause (*ia*) shall have effect, as if for the words “twenty per cent.”, the words “thirty-five per cent.” had been substituted.”.

<sup>4</sup>**Provided [further]** that no deduction shall be allowed in respect of—

- (A) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or
- (B) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house; or
- (C) any office appliances or road transport vehicles; or
- (D) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any one previous year;]

[(*iii*) in the case of any building, machinery, plant or furniture in respect of which depreciation is claimed and allowed under clause (*i*) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof :

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<sup>3</sup> Inserted with effect from April 1, 2016

<sup>4</sup> Substituted by Finance Act, 2015

**Provided** that such deficiency is actually written off in the books of the assessee.

*Explanation.*—For the purposes of this clause,—

(1) “moneys payable” in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) “sold” includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is [an Indian company or in a scheme of amalgamation of a banking company, as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a banking institution as referred to in sub-section (15) of section 45 of the said Act, sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of that Act, of any asset by the banking company to the banking institution.]

(iv) [\*\*\*]

(v) [\*\*\*]

(vi) [\*\*\*]

(1A) [\*\*\*]

[(2) Where, in the assessment of the assessee, full effect cannot be given to any allowance under sub-section (1) in any previous year, owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub-section (3) of section 73, the allowance or the part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years.]