

Development allowance.

33A. (1) In respect of planting of tea bushes on any land in India owned by an assessee who carries on business of growing and manufacturing tea in India, a sum by way of development allowance equivalent to—

- (i) where tea bushes have been planted on any land not planted at any time with tea bushes or on any land which had been previously abandoned, fifty per cent of the actual cost of planting; and
- (ii) where tea bushes are planted in replacement of tea bushes that have died or have become permanently useless on any land already planted, thirty per cent of the actual cost of planting,

shall, subject to the provisions of this section, be allowed as a deduction in the manner specified hereunder, namely :—

- (a) the amount of the development allowance shall, in the first instance, be computed with reference to that portion of the actual cost of planting which is incurred during the previous year in which the land is prepared for planting or replanting, as the case may be, and in the previous year next following, and the amount so computed shall be allowed as a deduction in respect of such previous year next following; and
- (b) thereafter, the development allowance shall again be computed with reference to the actual cost of planting, and if the sum so computed exceeds the amount allowed as a deduction under clause (a), the amount of the excess shall be allowed as a deduction in respect of the third succeeding previous year next following the previous year in which the land has been prepared for planting or replanting, as the case may be :

Provided that no deduction under clause (i) shall be allowed unless the planting has commenced after the 31st day of March, 1965, and been completed before the 1st day of April, 1990 :

Provided further that no deduction shall be allowed under clause (ii) unless the planting has commenced after the 31st day of March, 1965, and been completed before the 1st day of April, 1970.

(2) Where the total income of the assessee assessable for the assessment year relevant to the previous year in respect of which the deduction is required to be allowed under sub-section (1) (the total income for this purpose being computed after deduction of the allowance under sub-section (1) or sub-section (1A) or clause (ii) of sub-section (2) of section 33, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A [***]) is *nil* or is less than the full amount of the development allowance calculated at the rates and in the manner specified in sub-section (1)—

- (i) the sum to be allowed by way of development allowance for that assessment year under sub-section (1) shall be only such amount as is sufficient to reduce the said total income to *nil* ; and
- (ii) the amount of the development allowance, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development allowance to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to *nil*, and the balance of the

development allowance, if any, still outstanding shall be carried forward to the following assessment year and so on, so, however, that no portion of the development allowance shall be carried forward for more than eight assessment years immediately succeeding the assessment year in which the deduction was first allowable.

Explanation.—Where for any assessment year development allowance is to be allowed in accordance with the provisions of sub-section (2) in respect of more than one previous year, and the total income of the assessee assessable for that assessment year (the total income for this purpose being computed after deduction of the allowance under sub-section (1) or sub-section (1A) or clause (ii) of sub-section (2) of section 33, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A [***]) is less than the amount of the development allowance due to be made in respect of that assessment year, the following procedure shall be followed, namely :—

- (i) the allowance under clause (ii) of sub-section (2) of this section shall be made before any allowance under clause (i) of that sub-section is made; and
- (ii) where an allowance has to be made under clause (ii) of sub-section (2) of this section in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

(3) The deduction under sub-section (1) shall be allowed only if the following conditions are fulfilled, namely :—

- (i) the particulars prescribed in this behalf have been furnished by the assessee;
- (ii) an amount equal to seventy-five per cent of the development allowance to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by the assessee during a period of eight years next following for the purposes of the business of the undertaking, other than—
 - (a) for distribution by way of dividends or profits; or
 - (b) for remittance outside India as profits or for the creation of any asset outside India; and
- (iii) such other conditions as may be prescribed.

(4) If any such land is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which the deduction under sub-section (1) was allowed, any allowance under this section shall be deemed to have been wrongly made for the purposes of this Act, and the provisions of sub-section (5A) of section 155 shall apply accordingly :

Provided that this sub-section shall not apply—

- (i) where the land is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act, or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or
- (ii) where the sale or transfer of the land is made in connection with the amalgamation or succession referred to in sub-section (5) or sub-section (6).

(5) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any land in respect of which development allowance has been allowed to the amalgamating company under sub-section (1),—

- (a) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (3) in respect of the reserve created by the amalgamating company and in respect of the period within which such land shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (5A) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and
- (b) the balance of development allowance, if any, still outstanding to the amalgamating company in respect of such land shall be allowed to the amalgamated company in accordance with the provisions of sub-section (2), so, however, that the total period for which the balance of development allowance shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (2) and the amalgamated company shall be treated as the assessee in respect of such land for the purposes of this section.

(6) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any land on which development allowance has been allowed, the provisions of clauses (a) and (b) of sub-section (5) shall, so far as may be, apply to the firm and the company.

Explanation.—The provisions of this sub-section shall apply if the conditions laid down in the *Explanation* to sub-section (4) of section 33 are fulfilled.

(7) For the purposes of this section, “actual cost of planting” means the aggregate of—

- (i) the cost of preparing the land;
- (ii) the cost of seeds, cutting and nurseries;
- (iii) the cost of planting and replanting; and
- (iv) the cost of upkeep thereof for the previous year in which the land has been prepared and the three successive previous years next following such previous year,

reduced by that portion of the cost, if any, as has been met directly or indirectly by any other person or authority:

Provided that where such cost exceeds—

- (i) forty thousand rupees per hectare in respect of land situate in a hilly area comprised in the district of Darjeeling; or
- (ii) thirty-five thousand rupees per hectare in respect of land situate in a hilly area comprised in an area other than the district of Darjeeling; or
- (iii) thirty thousand rupees per hectare in any other area,

then, the excess shall be ignored.

Explanation.—For the purposes of this proviso, “district of Darjeeling” means the district of Darjeeling as on the 28th day of February, 1981, being the date of introduction of the Finance Bill, 1981, in the House of the People.

(8) The Board may, having regard to the elevation and topography, by general or special order, declare any areas to be hilly areas for the purposes of this section and such order shall not be questioned before any court of law or any other authority.

Explanation.—For the purposes of this section, an assessee having a leasehold or other right of occupancy in any land shall be deemed to own such land and where the assessee transfers such right, he shall be deemed to have sold or otherwise transferred such land.