

Cost with reference to certain modes of acquisition

49. (1) Where the capital asset became the property of the assessee—

- (i) on any distribution of assets on the total or partial partition of a Hindu undivided family;
- (ii) under a gift or will;
- (iii) (a) by succession, inheritance or devolution, or
 - (b) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken place at any time before the 1st day of April, 1987, or
 - (c) on any distribution of assets on the liquidation of a company, or
 - (d) under a transfer to a revocable or an irrevocable trust, or
 - (e) under any such transfer as is referred to in clause (iv) [or clause (v)] [or clause (vi)]¹[or clause (viaa) or clause (viab) or clause (vib) or clause (vica) or clause (vicc)] or [clause (xiii) or clause (xiiib) or clause (xiv) of section 47]];
- (iv) such assessee being a Hindu undivided family, by the mode referred to in sub-section (2) of section 64 at any time after the 31st day of December, 1969,

the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be.

Explanation.—In this [sub-section] the expression "previous owner of the property" in relation to any capital asset owned by an assessee means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in clause (i) or clause (ii) or clause (iii) [or clause (iv)] of this [sub-section].

(2) Where the capital asset being a share or shares in an amalgamated company which is an Indian company became the property of the assessee in consideration of a transfer referred to in clause (vii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the amalgamating company.

(2A) Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (x) or clause (xa) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.

¹ Substituted with effect from April 1, 2016

(2AA) Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.

(2AAA) Where the capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008 (6 of 2009), became the property of the assessee on conversion as referred to in clause (xiib) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before its conversion.

(2AB) Where the capital gain arises from the transfer of specified security or sweat equity shares, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under clause (ba) of sub-section (1) of section 115WC.

²[(2ABB) Where the capital asset, being share or shares of a company, is acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in clause (b) of sub-section (1) of section 115AC held by such assessee, the cost of acquisition of the share or shares shall be the price of such share or shares prevailing on any recognised stock exchange on the date on which a request for such redemption was made.

Explanation.—For the purposes of this sub-section, “recognised stock exchange” shall have the meaning assigned to it in clause (ii) of the *Explanation 1* to sub-section (5) of section 43].

(2AC) Where the capital asset, being a unit of a business trust, became the property of the assessee in consideration of a transfer as referred to in clause (xvii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share referred to in the said clause.

³[(2AD) Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in clause (xviii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.]

[(2B) [***]]

(2C) The cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

² Inserted with effect from April 1, 2016

³ Inserted with effect from April 1, 2016

(2D) The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived at under sub-section (2C).

(2E) The provisions of sub-section (2), sub-section (2C) and sub-section (2D) shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 44DB.

Explanation.—For the purposes of this section, "net worth" shall mean the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.]

(3) Notwithstanding anything contained in sub-section (1), where the capital gain arising from the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47 is deemed to be income chargeable under the head "Capital gains" by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee-company shall be the cost for which such asset was acquired by it.

(4) Where the capital gain arises from the transfer of a property, the value of which has been subject to income-tax under clause (vii) [or clause (viiia)] of sub-section (2) of section 56, the cost of acquisition of such property shall be deemed to be the value which has been taken into account for the purposes of the said clause (vii)[or clause (viiia)].