

Deduction in respect of profits and gains from newly established industrial undertakings or hotel business in backward areas.

80HH. (1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking, or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely :—

- (i) it has begun or begins to manufacture or produce articles after the 31st day of December, 1970 but before the 1st day of April, 1990, in any backward area;
- (ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence in any backward area :

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

- (iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose in any backward area;
- (iv) it employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

Explanation.—Where any machinery or plant or any part thereof previously used for any purpose in any backward area is transferred to a new business in that area or in any other backward area and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (iii) of this sub-section, the condition specified therein shall be deemed to have been fulfilled.

(3) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely :—

- (i) the business of the hotel has started or starts functioning after the 31st day of December, 1970 but before the 1st day of April, 1990, in any backward area;
- (ii) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence;
- (iii) the hotel is for the time being approved for the purposes of this sub-section by the Central Government.

(4) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of each of the ten assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or the business of the hotel starts functioning :

Provided that,—

- (i) in the case of an industrial undertaking which has begun to manufacture or produce articles, and

(ii) in the case of the business of a hotel which has started functioning, after the 31st day of December, 1970, but before the 1st day of April, 1973, this sub-section shall have effect as if the reference to ten assessment years were a reference to ten assessment years as reduced by the number of assessment years which expired before the 1st day of April, 1974.

(5) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) shall not be admissible unless the accounts of the industrial undertaking or the business of the hotel for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(6) Where any goods held for the purposes of the business of the industrial undertaking or the hotel are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date :

Provided that where, in the opinion of the Assessing Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation.—In this sub-section, “market value” in relation to any goods means the price that such goods would ordinarily fetch on sale in the open market.

(7) Where it appears to the Assessing Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel, the Assessing Officer shall, in computing the profits and gains of the industrial undertaking or the hotel for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(8) [***]

(9) In a case where the assessee is entitled also to the deduction under section 80-I or section 80J in relation to the profits and gains of an industrial undertaking or the business of a hotel to which this section applies, effect shall first be given to the provisions of this section.

(9A) Where a deduction in relation to the profits and gains of a small-scale industrial undertaking to which section 80HHA applies is claimed and allowed under that section for any assessment year, deduction in relation to such profits and gains shall not be allowed under this section for the same or any other assessment year.

(10) Nothing contained in this section shall apply in relation to any undertaking engaged in mining.

(11) For the purposes of this section, “backward area” means such area as the Central Government may, having regard to the stage of development of that area, by notification in the Official Gazette, specify in this behalf :

Provided that any notification under this sub-section may be issued so as to have retrospective effect to a date not earlier than the 1st day of April, 1983.