

**Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.**

**80-IA.** (1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sub-section (4) (such business being hereinafter referred to as the eligible business), 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 of an amount equal to hundred per cent of the profits and gains derived from such business for ten consecutive assessment years.

(2) The deduction specified in sub-section (1) may, at the option of the assessee, be claimed by him for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking or the enterprise develops and begins to operate any infrastructure facility or starts providing telecommunication service or develops an industrial park or develops [\*\*\*] a special economic zone referred to in clause (iii) of sub-section (4) or generates power or commences transmission or distribution of power or undertakes substantial renovation and modernisation of the existing transmission or distribution lines [\*\*\*]:

**Provided** that where the assessee develops or operates and maintains or develops, operates and maintains any infrastructure facility referred to in clause (a) or clause (b) or clause (c) of the *Explanation* to clause (i) of sub-section (4), the provisions of this sub-section shall have effect as if for the words “fifteen years”, the words “twenty years” had been substituted.

(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), the deduction in computing the total income of an undertaking providing telecommunication services, specified in clause (ii) of sub-section (4), shall be hundred per cent of the profits and gains of the eligible business for the first five assessment years commencing at any time during the periods as specified in sub-section (2) and thereafter, thirty per cent of such profits and gains for further five assessment years.

(3) This section applies to an undertaking referred to in clause (ii) or clause (iv) [\*\*\*] of sub-section (4) which fulfils all the following conditions, namely :—

(i) it is not formed by splitting up, or the reconstruction, of a business already in existence:

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

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose:

**Provided** that nothing contained in this sub-section shall apply in the case of transfer, either in whole or in part, of machinery or plant previously used by a State Electricity Board referred to in clause (7) of section 2 of the Electricity Act, 2003 (36 of 2003), whether or not such transfer is in pursuance of the splitting up or reconstruction or reorganisation of the Board under Part XIII of that Act.

*Explanation 1.*—For the purposes of clause (ii), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely :—

- (a) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;
- (b) such machinery or plant is imported into India from any country outside India; and
- (c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the assessee.

*Explanation 2.*—Where in the case of an undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business 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 (ii) of this sub-section, the condition specified therein shall be deemed to have been complied with.

(4) This section applies to—

- (i) any enterprise carrying on the business of (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining any infrastructure facility which fulfils all the following conditions, namely :—
  - (a) it is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act;
  - (b) it has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining a new infrastructure facility;
  - (c) it has started or starts operating and maintaining the infrastructure facility on or after the 1st day of April, 1995:

**Provided** that where an infrastructure facility is transferred on or after the 1st day of April, 1999 by an enterprise which developed such infrastructure facility (hereafter referred to in this section as the transferor enterprise) to another enterprise (hereafter in this section referred to as the transferee enterprise) for the purpose of operating and maintaining the infrastructure facility on its behalf in accordance with the agreement with the Central Government, State Government, local authority or statutory body, the provisions of this section shall apply to the transferee enterprise as if it were the enterprise to which this clause applies and the deduction from profits and gains would be available to such transferee enterprise for the unexpired period during which the transferor enterprise would have been entitled to the deduction, if the transfer had not taken place.

*Explanation.*—For the purposes of this clause, “infrastructure facility” means—

- (a) a road including toll road, a bridge or a rail system;
- (b) a highway project including housing or other activities being an integral part of the highway project;
- (c) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;
- (d) a port, airport, inland waterway, inland port or navigational channel in the sea;

- (ii) any undertaking which has started or starts providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services on or after the 1st day of April, 1995, but on or before the 31st day of March, 2005.

*Explanation.*—For the purposes of this clause, “domestic satellite” means a satellite owned and operated by an Indian company for providing telecommunication service;

- (iii) any undertaking which develops, develops and operates or maintains and operates an industrial park or special economic zone notified by the Central Government in accordance with the scheme framed and notified by that Government for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006:

**Provided** that in a case where an undertaking develops an industrial park on or after the 1st day of April, 1999 or a special economic zone on or after the 1st day of April, 2001 and transfers the operation and maintenance of such industrial park or such special economic zone, as the case may be, to another undertaking (hereafter in this section referred to as the transferee undertaking), the deduction under sub-section (1) shall be allowed to such transferee undertaking for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee undertaking :

**Provided further** that in the case of any undertaking which develops, develops and operates or maintains and operates an industrial park, the provisions of this clause shall have effect as if for the figures, letters and words “31st day of March, 2006”, the figures, letters and words “31st day of March, 2011” had been substituted;

- (iv) an undertaking which,—

(a) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on *the 31st day of March, 2013*;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on the 1st day of April, 1999 and ending on *the 31st day of March, 2013*:

**Provided** that the deduction under this section to an undertaking under sub-clause (b) shall be allowed only in relation to the profits derived from laying of such network of new lines for transmission or distribution;

(c) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on the 1st day of April, 2004 and ending on *the 31st day of March, 2013*.<sup>1</sup>

*Explanation.*—For the purposes of this sub-clause, “substantial renovation and modernisation” means an increase in the plant and machinery in the network of transmission or distribution lines by at least fifty per cent of the book value of such plant and machinery as on the 1st day of April, 2004;

- (v) an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant, if—

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<sup>1</sup> Substituted with effect from the 1st day of April, 2013

(a) such Indian company is formed before the 30th day of November, 2005 with majority equity participation by public sector companies for the purposes of enforcing the security interest of the lenders to the company owning the power generating plant and such Indian company is notified before the 31st day of December, 2005 by the Central Government for the purposes of this clause;

(b) such undertaking begins to generate or transmit or distribute power before the 31st day of March, 2011;

(vi) [\*\*\*]

(5) Notwithstanding anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

(6) Notwithstanding anything contained in sub-section (4), where housing or other activities are an integral part of the highway project and the profits of which are computed on such basis and manner as may be prescribed, such profit shall not be liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account; and the amount remaining unutilised shall be chargeable to tax as income of the year in which such transfer to reserve account took place.

(7) The deduction under sub-section (1) from profits and gains derived from an undertaking shall not be admissible unless the accounts of the undertaking 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.

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

**Provided** that where, in the opinion of the Assessing Officer, the computation of the profits and gains of the eligible business 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.**—For the purposes of this sub-section, “market value”, in relation to any goods or services, means—

- (i) the price that such goods or services would ordinarily fetch in the open market; or
- (ii) the arm's length price as defined in clause (ii) of section 92F, where the transfer of such goods or services is a specified domestic transaction referred to in section 92BA.<sup>2</sup>
- (9) Where any amount of profits and gains of an undertaking or of an enterprise in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter under the heading "*C.—Deductions in respect of certain incomes*", and shall in no case exceed the profits and gains of such eligible business of undertaking or enterprise, as the case may be.
- (10) Where it appears to the Assessing Officer that, owing to the close connection between the assessee carrying on the eligible business 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 such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F<sup>3</sup>

- (11) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from such date as it may specify in the notification.
- (12) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—
- (a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and
- (b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.
- (12A) Nothing contained in sub-section (12) shall apply to any enterprise or undertaking which is transferred in a scheme of amalgamation or demerger on or after the 1st day of April, 2007.
- (13) Nothing contained in this section shall apply to any Special Economic Zones notified on or after the 1st day of April, 2005 in accordance with the scheme referred to in sub-clause (iii) of clause (c) of sub-section (4).

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<sup>2</sup> Substituted with effect from the 1st day of April, 2013

<sup>3</sup> Inserted with effect from the 1st day of April, 2013

*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this section shall apply in relation to a business referred to in sub-section (4) which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by the undertaking or enterprise referred to in sub-section (1).