taxsutra All rights reserved

INCOME-TAX ACT, 2025

D: Profits and gains of business or profession

Section 44 - Amortisation of certain preliminary expenses.

(1) If an assessee, being an Indian company or a person (other than a company), who is resident in India, incurs any expenditure specified in sub-section (2)—

(a) before the commencement of its business; or

(b) after the commencement of its business, in connection with the extension of its undertaking or in connection with its setting up a new unit,

the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive tax years beginning with—

(i) the tax year in which the business commences, for clause (a); or

(ii) the tax year in which the extension of the undertaking is completed or the new unit commences production or operation, for clause (b).

(2) The expenditure referred to in sub-section (1) shall be—

(a) the expenditure in connection with—

(i) preparation of feasibility report;

(ii) preparation of project report;

(iii) conducting market survey or any other survey necessary for the business;

(iv) engineering services relating to the business;

(b) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business;

(c) in addition to expenditure in clauses (a) and (b), if the assessee is a company,—

(i) legal charges for drafting and printing of the Memorandum and Articles of Association of the company;

(ii) fees for registering the company under the provisions of the Companies Act, 2013;

(iii) expenditure in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus; and

(d) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act), as may be prescribed.

(3) In relation to expenditure specified in sub-section (2)(a), the assessee shall furnish a statement containing the particulars of the expenditure in such form and manner, as may be prescribed.

(4) The allowable deduction under sub-section (1) in respect of aggregate of expenditure referred to in sub-section (2) shall be restricted to 5%—

(a) of the cost of the project; or

Downloaded by @weboapps.com at 29/11/26 01:58pm

taxsutra All rights reserved

(b) of the capital employed in the business of the company, where the assessee is an Indian company, at its option.

(5) For the purposes of this section,—

(a) “cost of the project” means the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings) and—

(i) for cases under sub-section (1)(a), the actual cost as shown in the books of the assessee as on the last day of the tax year in which the business commences;

(ii) for cases under sub-section (1)(b), the actual cost as shown in the books of the assessee as on the last day of the tax year in which either the extension of the undertaking is completed, or the new unit commences production or operations, as the case may be, in so far as such fixed assets have been acquired or developed in connection with the extension of the undertaking or setting up of new unit;

(b) “capital employed in the business of the company” means—

(i) in cases under sub-section (1)(a), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the tax year in which the business of the company commences;

(ii) in a case under sub-section (1)(b), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the tax year in which the extension of the undertaking is completed or, as the case may be, the new unit commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the undertaking or the setting up of the new unit of the company;

(c) “long-term borrowings” means—

(i) any moneys borrowed by the company from Government or Industrial Finance Corporation of India Limited or any other financial institution which is eligible for deduction under section 32(e) or any banking institution (not being a financial institution referred to above); or

(ii) any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery, where the tenure of moneys borrowed or debt is not less than seven years.

(6) If the assessee is a person, other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless,—

(a) the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant before the specified date referred to in section 63; and

(b) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit by such date in such form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed.

(7) If an undertaking of Indian company entitled for deduction under sub-section (1) is transferred before expiry of five years specified in the said sub-section, in a scheme of amalgamation, to another Indian company, then—

(a) no deduction under sub-section (1) shall be allowed to the amalgamating company for the tax year in which amalgamation takes place; and

(b) all provisions of this section shall continue to apply to the amalgamated company as they would have applied to the amalgamating company, as if the amalgamation had not taken place.

Downloaded by @weboapps.com at 29/11/26 01:58pm

taxsutra All rights reserved

(8) If an undertaking of Indian company entitled for deduction under sub-section (1) is transferred before five years specified in the said sub-section, in a scheme of demerger to another company, then—

(a) no deduction under sub-section (1) shall be allowed to the demerged company for the tax year in which demerger takes place; and

(b) all provisions of this section shall continue to apply to the resulting company as they would have applied to the demerged company, as if the demerger had not taken place.

(9) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-section (2), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

Downloaded by @weboapps.com at 29/11/26 01:58pm