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INCOME-TAX ACT, 2025

E: Capital gains

Section 88 - Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone.

(1) Irrespective of anything contained in section 87, if the assessee has––

(a) capital gains arising from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the course of or in consequence of shifting of such industrial undertaking (original asset) to any Special Economic Zone in any urban or any other area; and

(b) has within one year before or three years after the date of such transfer,—

(i) purchased machinery or plant for the business of the industrial undertaking in such Special Economic Zone;

(ii) acquired building or land or constructed building for his business in such Special Economic Zone;

(iii) shifted the original asset and transferred the establishment of such undertaking to such Special Economic Zone; and

(iv) incurred expenses on such other purposes specified by a scheme notified by the Central Government in this behalf,

then, instead of capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(A) if the cost and expenses incurred in on all or any of the purposes mentioned sub-clauses (i) to (iv) referred to as “new asset”,––

(I) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or

(II) is equal to or more than the capital gains, no capital gain shall be charged under section 67;

(B) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be *nil* in case of sub-clause (A)(II), or shall be reduced by the amount of the capital gain in case of sub-clause (A)(I).

(2) If the capital gain referred to in sub-section (1) is not utilised by the assessee for the new asset within one year before the transfer of the original asset, or before filing the return of income under section 263, then,––

(a) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(b) such deposit shall be made before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1); and

(c) the proof of deposit shall be submitted along with such return.

(3) For the purposes of sub-section (1), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (2) shall be deemed to be the cost of the new asset.

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(4) If the amount deposited under sub-section (2) is not wholly or partly utilised for the new asset within the period specified in sub-section (1), then,—

(a) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(b) the assessee shall be entitled to withdraw such unutilised amount in accordance with the scheme referred to in sub-section (2).

(5) For the purpose of this section, the expression “urban area” shall have the meaning assigned to it in section 87.

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