Development rebate.

33. (1)(*a*) In respect of a new ship or new machinery or plant (other than office appliances or road transport vehicles) which is owned by the assessee and is wholly used for the purposes of the business carried on by him, there shall, in accordance with and subject to the provisions of this section and of section 34, be allowed a deduction, in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, a sum by way of development rebate as specified in clause (*b*).

(*b*) The sum referred to in clause (*a*) shall be—

(*A*) in the case of a ship, forty per cent of the actual cost thereof to the assessee;

(*B*) in the case of machinery or plant,—

(*i*) where the machinery or plant is installed for the purposes of business of construction, manufacture or production of any one or more of the articles or things specified in the list in the Fifth Schedule,—

(*a*) thirty-five per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) twenty-five per cent of such cost, where it is installed after the 31st day of March, 1970;

(*ii*) where the machinery or plant is installed after the 31st day of March, 1967, by an assessee being an Indian company in premises used by it as a hotel and such hotel is for the time being approved in this behalf by the Central Government,—

(*a*) thirty-five per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) twenty-five per cent of such cost, where it is installed after the 31st day of March, 1970;

(*iii*) where the machinery or plant is installed after the 31st day of March, 1967, being an asset representing expenditure of a capital nature on scientific research related to the business carried on by the assessee,—

(*a*) thirty-five per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) twenty-five per cent of such cost, where it is installed after the 31st day of March, 1970;

(*iv*) in any other case,—

(*a*) twenty per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) fifteen per cent of such cost, where it is installed after the 31st day of March, 1970.

(1A)(*a*) An assessee who, after the 31st day of March, 1964, acquires any ship which before the date of acquisition by him was used by any other person shall, subject to the provisions

of section 34, also be allowed as a deduction a sum by way of development rebate at such rate or rates as may be prescribed, provided that the following conditions are fulfilled, namely :—

(*i*) such ship was not previous to the date of such acquisition owned at any time by any person resident in India;

(*ii*) such ship is wholly used for the purposes of the business carried on by the assessee; and

(*iii*) such other conditions as may be prescribed.

(*b*) An assessee who installs any machinery or plant (other than office appliances or road transport vehicles) which before such installation by the assessee was used outside India by any other person shall, subject to the provisions of section 34, also be allowed as a deduction a sum by way of development rebate at such rate or rates as may be prescribed, provided that the following conditions are fulfilled, namely :—

(*i*) such machinery or plant was not used in India at any time previous to the date of such installation by the assessee;

(*ii*) it is imported in India by the assessee from any country outside India;

(*iii*) no deduction on account of depreciation or development rebate in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

(*iv*) such machinery or plant is wholly used for the purposes of the business carried on by the assessee; and

(*v*) such other conditions as may be prescribed.

(*c*) The development rebate under this sub-section shall be allowed as a deduction in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year.

(2) In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be (the total income for this purpose being computed without making any allowance under sub-section (1) or sub-section (1A) of this section or sub-section (1) of section 33A or any deduction under Chapter VI-A [***]) is *nil* or is less than the full amount of the development rebate calculated at the rate applicable thereto under sub-section (1) or sub-section (1A), as the case may be,—

(*i*) the sum to be allowed by way of development rebate for that assessment year under sub-section (1) or sub-section (1A) shall be only such amount as is sufficient to reduce the said total income to *nil* ; and

(*ii*) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development rebate to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of theassessee assessable for that assessment year, computed in the manner aforesaid, to *nil*, and the balance of the

development rebate, if any, still outstanding shall be carried forward to the following assessment year and so on, so however, that no portion of the development rebate shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be.

Explanation.—Where for any assessment year development rebate is to be allowed in accordance with the provisions of sub-section (2) in respect of ships acquired or machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assessment year (the total income for this purpose being computed without making any allowance under sub-section (1) or sub-section (1A) of this section or sub-section (1) of section 33A or any deduction under Chapter VI-A [***]) is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely :—

(*i*) the allowance under clause (*ii*) of sub-section (2) shall be made before any allowance under clause (*i*) of that sub-section is made; and

(*ii*) where an allowance has to be made under clause (*ii*) of sub-section (2) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

(3) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any ship, machinery or plant in respect of which development rebate has been allowed to the amalgamating company under sub-section (1) or sub-section (1A),—

(*a*) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (3) of section 34 in respect of the reserve created by the amalgamating company and in respect of the period within which such ship, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (5) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and

(*b*) the balance of development rebate, if any, still outstanding to the amalgamating company in respect of such ship, machinery or plant shall be allowed to the amalgamated company in accordance with the provisions of sub-section (2), so, however, that the total period for which the balance of development rebate shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (2) and the amalgamated company shall be treated as the assessee in respect of such ship, machinery or plant for the purposes of this section and section 34.

(4) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, machinery or plant, the provisions of clauses (*a*) and (*b*) of sub-section (3) shall, so far as may be, apply to the firm and the company.

Explanation.—The provisions of this clause shall apply only where—

(*i*) all the property of the firm relating to the business immediately before the succession becomes the property of the company;

(*ii*) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company; and

(*iii*) all the shareholders of the company were partners of the firm immediately before the succession.

(5) The Central Government, if it considers it necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed in respect of a ship acquired or machinery or plant installed after such date, not being earlier than three years from the date of such notification, as may be specified therein.

(6) Notwithstanding anything contained in the foregoing provisions of this section, no deduction by way of development rebate shall be allowed in respect of any machinery or plant installed after the 31st day of March, 1965, in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house:

Provided that the provisions of this sub-section shall not apply in the case of an assessee being an Indian company, in respect of any machinery or plant installed by it in premises used by it as a hotel, where the hotel is for the time being approved in this behalf by the Central Government.