Relaxation in the provisions relating to levy of Minimum Alternate Tax (MAT) in case of Companies against whom an application for Corporate Insolvency Process has been admitted under the Insolvency and Bankruptcy Code, 2016

As per the existing provisions of Section 115JB of the Income Tax, 1961, inter alia, provide that the book profit of the company shall be reduced ***only to the extent of lower of brought forward losses or unabsorbed depreciation*** for the purpose of levy of Minimum Alternate Tax (MAT).

By such restriction of reduction of (**least of the two i.e. brought forward losses or unabsorbed depreciation**) from the book profit for the purpose of calculation of MAT, the companies who have been admitted to the Corporate Insolvency Process (CIRP) under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016, were facing genuine hardship in terms of levy and calculation of Minimum Alternative Tax under provisions of Section 115JB of the Income Tax Act, 1961 because the MAT liability arise on higher of the book profit as computed under provisions of Section 115JB or normal profit as per provisions of Income Tax Act.

The Ministry of Finance Government of India on 06th January'2018 through Press Information Bureau (PIB) has relaxed the above restrictions and allowed the reduction of full amount of brought forward losses including unabsorbed depreciation from the book profit for the purpose of calculation and levy of Minimum Alternative Tax (MAT) under provisions of Section 115JB of the Income Tax Act, 1961 with effect from the Assessment Year 2018-19 (Financial Year 2017-2018) to such companies whose application under section 7or 9 or 10 of the IBC has been admitted by the Adjudication Authority.

This relaxation shall require the amendment in Section 115JB of the Income Tax Act, 1961 and the Government through the same PIB release has mentioned that appropriate legislative amendment in this regard will be made in due course.

Let us understand what is MAT and how does it affect the companies.

What and Why MAT?

MAT (Minimum Alternative Tax) is a tax payable under Income tax Act. Companies find various loop-holes to avoid paying income tax by using several exemptions. MAT is ways of making companies pay a minimum amount of tax. The concept of MAT was also introduced to target those companies that make huge profits and pay dividend to their shareholders but pay no/minimal tax by taking advantage of the various deductions, and exemptions allowed under income tax act. But with the introduction of MAT, the companies have to pay a fixed percentage of their profits as Minimum alternate Tax. **MAT is applicable to all the companies including foreign companies.**

MAT is calculated u/s **115JB** of the income tax Act. Every company should pay ***higher*** of the tax calculated under the following two provisions:

1. Tax liability as per the ***Normal provisions*** of income tax act (tax rate 30% plus 3% Edu cess plus surcharge (if applicable)

2. Tax liability as per the **MAT provisions** given in Sec 115JB (*18.5* % of Book Profits Plus 3 % education cess plus surcharge if applicable)

How to Calculate MAT?

MAT is equal to 18.5% of Book profits (Plus Surcharge and cess as applicable). Book profit means the net profit as shown in the profit & loss account for the year **as increased and decreased by following items**:

Additions to the Net Profit (If debited to P/l A/c):

1. Income Tax paid or payable if any calculated as per normal provisions of income tax act.

2. Transfer made to any reserve

3. Dividend proposed or paid

4. Provision for loss of subsidiary companies

5. Depreciation including depreciation on account of revaluation of assets

6. Amount/provision of deferred tax

7. Provision for unascertained liabilities e.g. provision for bad debts

8. Amount of expense relating to exempt income u/s 10, 11, 12 (except sec 10AA and 10(38) (It means income u/s 10AA & long term capital gain exempt u/s 10(38) are subject to MAT).

Deletions to the Net Profit (If credited to P/L A/c)

1. Amount withdrawn from any reserves or provisions

2. The amount of income to which any of the provisions of section 10, 11 & 12 except 10AA & 10(38) apply.

3. Amount withdrawn from revaluation reserve and credited to profit & loss account to the extent of depreciation on account of revaluation of asset.

4. **Amount of loss brought forward or unabsorbed depreciation, whichever is less as per the books of account. However loss shall not include the depreciation. (if loss brought forward or unabsorbed depreciation is nil then nothing shall be deducted.)**

5. Amount of Deferred Tax, is any such amount is credited in the profit & loss account

6. Amount of depreciation debited to P/l A/c (excluding the depreciation on revaluation of Assets)

What is MAT CREDIT?

When any amount of tax is paid as MAT by the company, then it can claim the credit of such tax paid in accordance with the provision of section 115JAA.

Allowable Tax Credit = Tax paid as per MAT calculation — Income tax payable under normal provision of Income tax Act, 1961.

(However, no interest shall be paid on this Tax credit by the Department.)

For Instance

ABC ltd has the taxable income as per normal provisions of income tax Act Rs 40 lakhs and Book profits of Rs 75 lakhs for the FY 2016-17.

Tax payable will be higher of the following two:

1. Tax liability as per Normal provisions will be :

Rs 40, 00,000 @ 30 % plus 3% = 12,36, 000

2. Tax liability as per MAT provisions will be :

Rs 75, 00,000 @ 18.5 % plus 3% = Rs 14,29,125

Hence Tax payable by the company will be Rs 14, 29,125.

MAT CREDIT= Rs 14,29,125 – Rs 12, 36,000 = Rs 1,93,125

Such tax credit shall be carry forward for **10 assessment year** immediately succeeding the assessment year in which such credit is become allowable. For instance If the excess tax is paid in FY 2016-17, then the credit of such tax can be carried forward in FY 2017-18 .

Tax credit shall be allowed set off in a year when tax becomes payable on the total income in accordance with the normal provisions of the Act. Set off shall be allowed to the extent of difference between tax on the total income under normal provision and tax which would have been payable as pr MAT u/s 115JB.

MAT credit can be better explained with the help of an illustration. So let's try to understand it with the help of an example:

Ass. Year	**Tax Payable under MAT**	**Tax Payable as per normal provisions**	**Actual Tax payable**	**Tax Credit Available u/s 115JAA**	**Tax Credit Set off/ adjusted**	**Total Tax Credit Available**
2013-14	8,00,000	5,00,000	8,00,000	3,00,000	–	3,00,000
2014-15	9,00,000	6,50,000	9,00,000	2,50,000	–	5,50,000
2015-16	10,00,000	7,00,000	10,00,000	3,00,000	–	8,50,000
2015-16	7,00,000	10,00,000	7,00,000	–	3,00,000	5,50,000
2016-17	6,00,000	11,00,000	6,00,000	–	5,00,000	50,000

- Actual tax payable = Higher of Tax Payable under MAT OR Tax Payable as per normal provisions.

- MAT credit set off is allowed only if tax payable as per normal provisions is greater than tax payable as per MAT and also to the extent of difference between the two.
- MAT Credit Available u/s 115JAA = Tax Payable under MAT — Tax Payable as per normal provisions