PRACTICAL ASPECTS ON SECTION 10AA

[AS AMENDED BY FINANCE ACT, 2017]

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ASSESSMENT YEAR 2018-19

Special Thanks to CA Chetan V Chaudhary

Law stated in this book is as amended by the Finance Act, 2017

2.5 TAX HOLIDAY UNDER SECTION 10AA – EXEMPTION VS. DEDUCTION

Section:- 10AA - Effective from A.Y.2018-19

(A) Conditions:

(1) A unit in SEZ has begun to manufacture or produce any article or things or provide any services after 31.03.2005 but on or before 31st March, 2020.

(2) The unit in SEZ is not formed by the splitting up, or the reconstruction, of a business already in existence.

However, where an industrial undertaking is formed as a result of re-establishment, reconstruction or revival by the assesse of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section the same will quality for the tax concession.

Section 33B
The business of any industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee and used for the purposes of such business as a direct result of— (*i*) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature ; or (*ii*) riot or civil disturbance ; or (*iii*) accidental fire or explosion ; or (*iv*) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war), and, thereafter, at any time before the expiry of three years from the end of such previous year, the business is re-established, reconstructed or revived by the assessee.

(3) The unit in SEZ is not set up by the transfer of plant and machinery previously used for any purpose. This condition is subject to following relaxation:

(a) *20 per cent previously used plant and machinery is permitted* - If the value of the previously used plant and machinery does not exceed 20 per cent of the total value of the machinery or plant used in the business, this condition is deemed to have been complied with.

(b) *Second-hand imported machinery is treated as new-* 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—

(i) Such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India.

(ii) Such machinery or plant is imported into India from any country outside India.

(iii) No deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the 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.

(4) The assessee shall furnish the report from an chartered accountant in a prescribed form along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provision of this section.

(5) Deduction under section 10A is not available unless it is claimed in the return of income. – Section 80A(5).

(6) *If deduction is claimed in respect of a specified business [as referred to in section 35AD(8)(c)] under section 10AA, no deduction in respect of that business will be available under section 35AD.*

(B) Period and quantum of deduction:-

First 5 consecutive assessment years (beginning with the assessment year in which undertaking begins to manufacture or produce articles or things or computer software, as the case may be)	100% of profits and gains derived from export
Next 5 assessment years	50% of profits and gains derived from export
Next 5 assessment years	50% of profits and gains derived from export or amount transferred to "Special Economic Zone Reinvestment Allowance Reserve Account" whichever is lower.

(C) Profits and gains derived from export shall be worked out as under:-

Profits of the business of the unit × $\dfrac{\text{Export turnover of the unit}}{\text{Total Turnover of the unit}}$

(1) Export Turnover means the consideration in respect of export by the unit of articles or things or services received in, or brought into India by the assessee, <u>but does not include the following</u>:

a. Freight;

b. Telecommunication charges;

c. Insurance attributable to the delivery of the articles or things outside India;

d. Expenses, if any, incurred in foreign exchange in rendering of services outside India.

(2) The profits and gains derived from on-site development of computer software including services for development of software outside India shall be deemed to be export profits eligible for deduction.

(D) Ceiling on deduction to be claimed under section 10AA of the Act

As per the amendment made by Finance Act, 2017 w.e.f. A.Y. 2018-19,

(a) Amount of deduction under section 10AA shall be allowed from the total income of the assessee computed under the Act before giving deduction under section 10AA and

(b) Deduction under section 10AA shall not exceed (a) above

Practical 2

Rajesh Exports Pvt Ltd. has set up its manufacturing unit in SEZ which is eligible for the benefit under section 10AA of Income Tax Act. Apart from that it has another manufacturing unit in Non-SEZ area. It provides following information for the year under consideration:

Particulars	(Rs. In lakhs)
Profit from the manufacturing unit set up in SEZ (Export turnover/Total Turnover = 90%)	80
Profit from the manufacturing unit in Non-SEZ area	-40
Income from other sources	22
Amount eligible for deduction under section 80G	5

Compute total income of Rajesh Exports Pvt Ltd. (a) before amendment made by Finance Act, 2017 (b) After amendment made by Finance Act, 2017.

Solution

(a) Computation of Total Income of Rajesh Export Pvt Ltd. before amendment

Particulars	Rs.	Rs.
Profit from the manufacturing unit set up in SEZ	80	
Less: Exemption under section 10AA (90% of Rs. 80)	(72)	8
Profit from the manufacturing unit in Non-SEZ Area		(40)
Income under the head PGBP (A)		**(32)**
Income from Other sources (B)		**22**
Gross Total Income (A) plus (B)		**(10)**
Deduction under section 80 G		Nil
Total Income		**(10)**

Note: Business loss to be carried forward Rs. 10 Lakh.

(b) Computation of Total Income of Rajesh Export Pvt Ltd. after amendment

Particulars	Rs.	Rs.
Profit from the manufacturing unit set up in SEZ	80	
Profit from the manufacturing unit in Non-SEZ Area	(40)	
Income under the head PGBP (A)		**40**
Income from Other sources (B)		**22**
Gross Total Income (A) plus (B)		**62**
Less: Deduction under section 80 G		(5)
Total Income before giving deduction under section 10AA (C)		**57**
Less: Deduction under 10 AA is lower of followings:		(57)
(a) Total income as per (C) above	57	
(b) Deduction under section 10AA (90% of Rs. 80)	72	
Total Income		**Nil**

Readers Note: