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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 20th September, 2019/*Bhadra* 29, 1941 (*Saka*)

THE TAXATION LAWS (AMENDMENT) ORDINANCE, 2019

No 15 OF 2019

Promulgated by the President in the Seventieth Year of the Republic of India.

An Ordinance further to amend the Income-tax Act, 1961 and the Finance (No. 2) Act, 2019.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I
PRELIMINARY

Short title and commence-ment.

1. (*1*) This Ordinance may be called the Taxation Laws (Amendment) Ordinance, 2019.

(*2*) Save as otherwise provided, this Ordinance shall come into force at once.

CHAPTER II
AMENDMENTS IN THE INCOME-TAX ACT, 1961

Amendment of section 92BA.

2. In section 92BA of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), after clause (*v*), the following clause shall be inserted with effect from the 1st day of April, 2020, namely:— 43 of 1961.

"*(va)* any business transacted between the persons referred to in sub-section (*4*) of section 115BAB;".

Amendment of section 115BA.

3. In section 115BA of the Income-tax Act with effect from the 1st day of April, 2020,—

(*a*) for the marginal heading "Tax on income of certain domestic companies", the marginal heading "Tax on income of certain domestic manufacturing companies" shall be substituted;

(*b*) in sub-section (*1*), for the words "subject to the other provisions of this Chapter", the words, figures and letters "subject to the other provisions of this Chapter, other than those mentioned under section 115BAA and section 115BAB" shall be substituted;

(*c*) in sub-section (*4*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where the person exercises option under section 115BAB, the option under this section may be withdrawn.".

Insertion of new sections 115BAA and 115BAB.

4. After section 115BA of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of April, 2020, namely:—

Tax on income of certain domestic companies.

"115BAA. (*1*) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAB, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of twenty-two per cent., if the conditions contained in sub-section (*2*) are satisfied.

(2) For the purposes of sub-section (*1*), the following conditions shall apply subject to the condition that the total income of the company has been computed,—

(*i*) without any deduction under the provisions of section 10AA or clause (*iia*) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (*ii*) or sub-clause (*iia*) or sub-clause (*iii*) of sub-section (*1*) or sub-section (*2AA*) or sub-section (*2AB*) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading "*C.—Deductions in respect of certain incomes*" other than the provisions of section 80JJAA;

(*ii*) without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred to in sub-clause (*i*); and

(*iii*) by claiming the depreciation, if any, under section 32, other than clause (*iia*) of sub-section (*1*) of the said section, determined in such manner as may be prescribed.

(*3*) The loss referred to in sub-clause (*ii*) of sub-section (*2*) shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(*4*) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (*1*) of section 139 for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Tax on income of certain new domestic manufacturing companies.

115BAB. (*1*) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAA, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of fifteen per cent., if the conditions contained in sub-section (*2*) are satisfied.

(*2*) For the purposes of sub-section (*1*), the following conditions shall apply, namely:—

(*a*) the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing on or before the 31st day of March, 2023, and,—

(i) is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in the said section;

(ii) does not use any machinery or plant previously used for any purpose.

Explanation 1.—For the purposes of sub-clause (*ii*), any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(A) such machinery or plant was not, at any time previous to the date of the installation by the person, used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

Explanation 2.—Where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of such machinery or plant or part thereof does not exceed twenty per cent. of the total value of the machinery or plant used by the company, then, for the purposes of sub-clause (*ii*) of this clause, the condition specified therein shall be deemed to have been complied with;

(iii) does not use any building previously used as a hotel or a convention centre, as the case may be.

Explanation.—For the purposes of this sub-clause, the expressions "convention centre" and "hotel" shall have the meanings respectively assigned to them in clause (*a*) and clause (*b*) of sub-section (*6*) of section 80-ID;

(*b*) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and

(*c*) the total income of the company has been computed,—

(*i*) without any deduction under the provisions of section 10AA or clause (*iia*) of sub-section (*1*) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (*ii*) or sub-clause (*iia*) or sub-clause (*iii*) of sub-section (*1*) or sub-section (*2AA*) or sub-section (*2AB*) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading *"C.—Deductions in respect of certain incomes"* other than the provisions of section 80JJAA;

(*ii*) without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred to in sub-clause (*i*); and

(*iii*) by claiming the depreciation under section 32, other than clause (*iia*) of sub-section (*1*) of the said section, determined in such manner as may be prescribed.

(*3*) The loss referred to in sub-clause (*ii*) of clause (*c*) of sub-section (*2*) shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(*4*) Where it appears to the Assessing Officer that, owing to the close connection between the company and any other person, or for any other reason, the course of business between them is so arranged that the business

transacted between them produces to the company more than the ordinary profits which might be expected to arise, the Assessing Officer shall, in computing the profits and gains of such company for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (*ii*) of section 92F.

(*5*) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (*1*) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

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Amendment of section 115JB.

5. In section 115JB of the Income-tax Act, with effect from the 1st day of April, 2020,—

(*a*) in sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that for the previous year relevant to the assessment year commencing on or after the 1st day of April, 2020, the provisions of this sub-section shall have effect as if for the words "eighteen and one-half per cent.", occurring at both the places, the words "fifteen per cent." had been substituted.";

(*b*) for sub-section (*5A*), the following sub-section shall be substituted, namely:—

"(*5A*) The provisions of this section shall not apply to,—

(*i*) any income accruing or arising to a company from life insurance business referred to in section 115B;

(*ii*) a person who has exercised the option referred to under section 115BAA or section 115BAB.".

Amendment of section 115QA.

6. In section 115QA of the Income-tax Act, in sub-section (*1*), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 5th day of July, 2019, namely:—

"Provided that the provisions of this sub-section shall not apply to such buy-back of shares (being the shares listed on a recognised stock exchange), in respect of which public announcement has been made before 5th day of July, 2019 in accordance with the provisions of the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018 made under the Securities and Exchange Board of India Act, 1992 as amended from time to time.

15 of 1992.

CHAPTER III
AMENDMENTS IN THE FINANCE (No.2) Act, 2019

Amendment of Act No. 23 of 2019.

7. In section 2 of the Finance (No.2) Act, 2019 [hereafter in this Chapter referred to as the Finance (No.2) Act], in sub-section (*9*), with effect from the 1st day of April, 2019,—

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(*a*) in third proviso,—

(*i*) in clause (*a*) for the words "the Income-tax Act", the words, figures and letters "the Income-tax Act, not having any income under section 115AD of the Income-tax Act" shall be inserted and shall be deemed to have been inserted;

(*ii*) after clause (*a*), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

'(*aa*) in the case of every association of persons or body of individuals, whether incorporated or not, having income under section 115AD of the Income-tax Act,—

(*i*) at the rate of ten per cent. of such "advance tax", where the total income exceeds fifty lakh rupees, but does not exceed one crore rupees;

(*ii*) at the rate of fifteen per cent. of such "advance tax", where the total income exceeds one crore rupees but does not exceed two crore

rupees;

(*iii*) at the rate of twenty five per cent. of such "advance tax", where the total income [excluding the income of the nature referred to in clause (*b*) of sub-section (*1*) of section 115AD of the Income-tax Act] exceeds two crore rupees but does not exceed five crore rupees;

(*iv*) at the rate of thirty-seven per cent. of such "advance tax", where the total income [excluding the income of the nature referred to in clause (*b*) of sub-section (*1*) of section 115AD of the Income-tax Act] exceeds five crore rupees;

(*v*) at the rate of fifteen per cent. of such "advance tax", where the total income [including the income of the nature referred to in clause (*b*) of sub-section (*1*) of section 115AD of the Income-tax Act] exceeds two crore rupees but is not covered in sub-clauses (*iii*) and (*iv*):

Provided that in case where the total income includes any income chargeable under clause (*b*) of sub-section (*1*) of section 115AD of the Income-tax Act, the rate of surcharge on the advance tax computed on that part of income shall not exceed fifteen per cent.;';

(*b*) in the fourth proviso, for the words, brackets and letter "in (*a*) above", the words, brackets and letters "in (*a*) and (*aa*) above" shall be substituted;

(*c*) after the eighth proviso, the following proviso shall be inserted, namely:—

"Provided also that in respect of any income chargeable to tax under section 115BAA or section 115BAB of the Income-tax Act, the tax computed under the first proviso shall be increased by a surcharge, for the purposes of the Union, calculated at the rate of ten per cent. of such "advance tax".

8. In the First Schedule of the Finance (No.2) Act, with effect from the 1st day of April, 2019,— Amendment of Part II of First Schedule.

(*A*) in PART II, under the sub-heading "Surcharge on income-tax", in paragraph (*i*), in clause (*a*),—

(*i*) in sub-clauses I and II, after the words "aggregate of such incomes", the brackets, figures and letters "(including the income under the provisions of section 111A and section 112A of the Income-tax Act)" shall be inserted and shall be deemed to have been inserted;

(*ii*) in sub-clauses III and IV, after the words "aggregate of such incomes" the brackets, figures and letters "(excluding the income under the provisions of section 111A and section 112A of the Income-tax Act)" shall be inserted and shall be deemed to have been inserted.

(*iii*) after sub-clause IV, the following sub-clause shall be inserted and shall be deemed to have been inserted, namely:—

"V. at the rate of fifteen per cent. of such tax, where the income or aggregate of such incomes (including the income under the provisions of section 111A and section 112A of the Income-tax Act) paid or likely to be paid and subject to the deduction exceeds two crore rupees, but is not covered under sub-clauses III and IV):

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Provided that in case where the total income includes any income chargeable under section 111A and section 112A of the Income-tax Act, the rate of surcharge on the amount of income-tax deducted in respect of that part of income shall not exceed fifteen per cent.;';

(*B*) in PART III, in Paragraph A, under the sub-heading "Surcharge on income-tax", after the opening portion,—

(*i*) in clauses (*a*) and (*b*), after the words "having a total income", the brackets, words, figures and letters "(including the income under the provisions of section 111A and section 112A)" shall be inserted;

(*ii*) in clauses (*c*) and (*d*), after the words "having a total income", the brackets, words, figures and letters "(excluding the income under the provisions of section 111A and section 112A)" shall be inserted;

(*iii*) after clause (*d*) and before the proviso, the following clause shall be inserted, namely:—

"(*e*) having a total income (including the income under the provisions of section 111A and section 112A) exceeding two crore rupees, but is not covered under clauses (*c*) and (*d*), shall be applicable at the rate of fifteen per cent. of such income-tax:

Provided that in case where the total income includes any income chargeable under section 111A and section 112A of the Income-tax Act, the rate of surcharge on the amount of income-tax computed on that part of income shall not exceed fifteen per cent.;';

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

ONE-STOP DESTINATION FOR TAXMAN AND TAXPAYER

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