Department of Applied Economics and Commerce

Patna University, Patna

Corporate tax planning and management (COMEC-1)

M.com Semester IV

Unit- II

Tax planning in respect of nature of business

Nature of business is basically concerned with the types and the location of the business organization which are going to be benefited with the provisions of the tax planning. These things have been explained in this topic. The provisions of Income- tax law in respect of these business activities and the knowledge of the same will help to some extent in reducing the tax liability of such concern which is known as tax planning in respect of the nature of the business firm. Tax planning is relevant while deciding upon the nature of business. The choice of the nature of the business also calls for appropriate planning with reference to the various special benefits available under the taxation laws to the particular kinds of industries which are not available to other kinds. Some of these benefits are of such a substantial nature that they constitute one of the major factors in the determination of the nature of the business. On the basis of the nature of the business, the benefit of tax exemption or concessional treatment available in respect of certain types of business income such as **agriculture income, New Undertaking engaged in the business of Hotel, new industrial undertaking, Enterprise engaged in Infrastructure Development, business of exploration, shipping business etc.**

Tax planning for income from Newly Business Undertakings in Special Economic Zones (Section 10 AA)

An entrepreneur, who has started new business undertakings in Special Economic Zone to manufacture or produce articles or things or provide service on or after 1.4.2006 for the purpose of exporting to other countries, shall be allowed deduction from his total income provided he must fulfill all the essential conditions as specified under this section 10 AA. Deduction under this section is available to all categories of assesses being entrepreneurs viz., individuals, firms, companies, etc. who derive any profits or gains from such undertakings for a total period of 15 years.

Quantum of deduction:

100 percent of the profits and gains derived from the export of such articles or things or from services for the 5 consecutive assessment years beginning with the assessment year relevant to the previous year in which the units begins to manufacture such articles or things or provide services shall be allowed as deduction.

50 percent of profits or gains of such undertaking for the next 5 consecutive years shall be allowed as deduction. 50 percent of profit of such undertaking for the next 5 consecutive years shall be allowed as deduction provided the conditions mentioned in section 10AA (2) are satisfied.

Tax planning in respect of income from Enterprise engaged in Infrastructure Development (Section 80 IA)

A new undertaking, owned by a company or consortium of companies registered in India., or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act, starts operating and maintaining the infrastructure facility on or after 1st April, 1995 but before 01.04.2017, shall be allowed deduction from its total income provided it must fulfill all the essential conditions as specified under this section 80IA.

Infrastructure facility means:

(a) A road including toll road, bridge or a rail system,

(b) A highway project including housing or other activities being an integral part of the highway project,

(c) A water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system,

(d) A port, airport, inland water ways or inland port or navigation channel in the sea.

Quantum of deduction:

100 percent of the profits from such undertaking are eligible for deduction for a period of 10 consecutive assessment years from the initial assessment year in which it begins to operate. The deduction will be available for any ten consecutive assessment years out of 20 years beginning with the year in which the undertaking begins to operate.

It will be available for any ten consecutive assessment years out of 15 years instead of 20 years beginning with the year in which the undertaking begins to operate and develop port, airport, inland waterways or inland port.

It is important to keep in mind the benefit of deduction to housing and other development activities which are in integral part of a highway project shall be allowed if the following conditions are satisfied:

(a) Such profits are transferred to a specials reserve account.
(b) Such profits are utilized for highway project, excluding housing and other activities, before the expiry of three years following the year in which the amount was transferred to the reserve account.

The amount remaining unutilized shall be chargeable to tax as income of the year in which it transferred to the reserve account.

The assessee has to file audit report in the prescribed form electronically.

Tax planning for *the business of Generation or Generation and Distribution of Power (Section 80- IA(4)(iv))*

A new undertaking will be eligible for deduction under this section 80-IA(4)(iv), if:

(a) It begins to generate and distribute power on 1-4-1993 but before 1-4- 2017 in any part of India;

(b) It starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1-4-1999 and ending on 31-3-2017;

(c) Undertakes substantial renovation and modernization of the existing transmission or distribution lines at any time during the period of 1-4-2004 to 31-3-2017.

Quantum and period of deduction:

100 percent of the profits from such undertaking for a period of 10 consecutive assessment years out of 15 years beginning with the year in which the undertaking generates power or commences transmission or distribution of power provided it must fulfill all the essential conditions as specified under this section 80-IA(4)(iv).

Conditions for deduction- the deduction shall be allowed if the following conditions are satisfied:

i. It is not formed by the splitting up, or the reconstruction, of a business already existence.
ii. It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Tax planning for *New Undertaking engaged in the business of Hotel*

A new undertaking engaged in the business of hotel (not below two-star category) has started or starts functioning in the specified district having a World Heritage Site on or after 01-04-2008 but before 31-3-2013, shall be allowed deduction from its total income provided it must fulfill all the essential conditions as specified under the section 80 ID. Hundred percent (100%) of the profits and gains from such business for five consecutive assessment years from the initial assessment year in which it begins to operate.

An undertaking engaged in the business of hotel (not below two-star category) in North Eastern States during the period beginning on 1-4-2007 and ending before 1-4-2017 provided certain essential conditions under this section 80-IE might have been fulfilled. 100 percent of the profits derived from such business for 10 consecutive years commencing with the initial assessment year.

Conditions for deduction- the deduction shall be allowed if the following conditions are satisfied:

i. It is not formed by the splitting up, or the reconstruction, of a business already in existence.
ii. It is not formed by the transfer to a new business of a building previously used as a hotel or convention centre.
iii. It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.
iv. The assessee has to file audit report in the prescribed form (Form no. 10CCBBA) electronically.

North eastern states means the states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, and Tripura.

Deduction regarding capital structure: if an assessee incurs capital expenditure, he is allowed to deduct such expenditure from income of business. Where the assessee owns the hotel but transfers the operation to another person, he will get deduction after satisfying the following conditions:

i. It should be a new business.
ii. Such business should be commenced after 31.03.2010.
iii. The capital expenditure is incurred prior to the commencement to its operations.
iv. The amount is capitalized in the books of account on the date of commencement to its operations.
v. The capital expenditure shall not include expenditure incurred on acquisition of land or goodwill or financial instrument.
vi. The books of account should be audited and filed its report electronically.

By

Sanjeev Kumar

Research Scholar

Dept. of Applied Eco. & Com., Patna University, Patna

Email id- skpathak012@gmail.com, contact no.-8271099012