Abstract of Changes made in Finance Bill,2015 by Lok Sabha

Outline

1. **Mat Exemption to Foreign Companies**

In the original bill it was provided to only FII. Therefore, the Finance Bill, 2015 as passed by Lok Sabha proposes to provide relief from MAT to foreign companies as well. Capital gains from transfer of securities, interest, royalty and FTS accruing or arising to foreign company has been proposed to be excluded from chargeability of MAT if tax payable on such income is less than 18.5%. Further, expenditures, if any, debited to the profit loss account, corresponding to such income shall also be added back to the book profit for the purpose of computation of MAT.

2. **MAT exemption on notional gain arising on transfer of share of SPV**

   A new clause is proposed to be inserted to re-compute the gains from transfer of said units (as referred to in point (c) above) which shall be added back for computation of MAT. It is proposed that the amount of gain from transfer of said units shall be computed by taking into account the cost of shares exchanged with units or the carrying amount of the shares at time of exchange where such shares are carried at a value other than the cost through profit & loss account.

   Accordingly, notional loss arising from transfer of asset or notional loss arising from change in carrying amount of said units and actual loss from transfer of said units shall be added back to the book profit for the purpose of computation of MAT.

3. **Deduction under Section 80D in case of individual**

   The Finance Bill, 2015 as presented originally omitted to propose amendment to clause (a) and clause (b) of sub-section (2) of Section 80D to enable assessee to claim deduction of Rs. 25,000 instead of Rs. 15,000. However, sub-section (4) of Section 80D was amended to allow deduction of Rs. 30,000 instead of Rs. 25,000 if individual or his family member or any of his parent is a senior citizen or very senior citizen.

4. **Residential Status of a Company**

   The Finance Bill, 2015 as presented earlier proposed to amend Section 6 to provide that a company shall be said to be resident in India if its place of effective management, at any time in that year, is in India. In other words, the concept of Control or Management (wholly in India) is replaced with Place of Effective Management (at any time in India).

Thus, the Finance Bill, 2015 as passed by the Lok Sabha has proposed to omit the words 'at any time' which shall have effect that a company shall be deemed to be resident in India if its place of effective management is in India.

5. **Filing of return is mandatory if assessee has foreign assets**

The Finance Bill, 2015 as passed by the Lok Sabha has proposed mandatory filing of return by a person, being a resident other than not ordinarily resident in India, who at any time during the previous year:

(*a*) holds, as a beneficial owner or otherwise, any asset (including financial interest in any entity) located outside India or has signing authority in any account located outside India; or
(*b*) is a beneficiary of any asset (including any financial interest in any entity) located outside India.

However, filing of return shall not be mandatory under this proviso for an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India, if income arising from such an asset is includible in the income of the person who is beneficial owner of such an asset.

6. **Subsidies are no longer capital receipts**

To end the dispute, it is proposed to amend the definition of 'Income' under Section 2(24) in the Finance Bill, 2015 as passed by the Lok Sabha.
A new sub-clause (xviii) is proposed to be inserted in Section 2(24) to provide that assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assesse [other than one considered under *Explanation* 10 to Section 43(1)] would be included in assessee's income.
Thus, any subsidy which is not reduced from the actual cost of the asset in view of provisions of *Explanation* 10 to Section 43(1) shall be taxable as revenue receipts of the assessee.

7. **Bad debts could be claimed without writing off debt in books of account**

In order to remove this anomaly, it is proposed in the Finance Bill, 2015 as passed by the Lok Sabha that bad-debts could be claimed without writing off in books of account if the amount of debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standard notified under section 145(2) without recording the same in the accounts.

Thus, Section 36(vii), once again, proposed to be amended to get back to original position (i.e., the position that stood till Assessment Year 1988-89) but to a limited extent

8. **Interest on loan taken for acquisition of an asset could only be capitalized till the asset is first put to use**

   The Finance Bill, 2015 as passed by Lok Sabha proposes to remove this distinction in allowability of interest in case of existing business and in case of extension of existing business. It proposes to remove the words "for extension of existing business or profession" from proviso to Section 36(1)(iii). Thus, it is proposed that interest on borrowings used for acquisition of asset till the asset is put to use shall not be allowed as deduction in any case.

9. **Determination of period of holding and cost of acquisition in case of shares acquired on redemption of GDRs**

   It is proposed that cost of acquisition of shares acquired by a non-resident on redemption of GDRs shall be the price of such shares as prevailing on any recognized stock exchange on the date on which a request for redemption is made by the assessee.

10. **Additional Depreciation and Investment Allowance allowed to industries set-up in Bihar and West Bengal**

    The Finance Bill, 2015 as presented on February 28, 2015 proposed to allow higher additional depreciation at the rate of 35% (instead of 20%) in respect of the actual cost of new machinery or plant acquired and installed by a manufacturing undertaking or enterprise set-up in the notified backward area of the State of Andhra Pradesh and the State of Telangana.
    The Finance Bill, 2015 as passed by the Lok Sabha proposes to extend the benefit of additional depreciation and investment allowance to the manufacturing undertaking or enterprise set-up in the notified backward area of State of Bihar and State of West Bengal as well.

About the Author:

Author is practicing chartered accountant in Gurgaon and having specialisation in Service Tax and Haryana VAT. He can be reached at ca.sanjeevkumar@hotmail.com. Phone : 0124-4271552.