

**NEWLY ESTABLISHED UNITS
IN SPECIAL ECONOMIC ZONES
(SECTION 10AA)**

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INTRODUCTION

Section 10 AA

Section 10AA provides a deduction from total income of such profits and gains derived by an assessee being an entrepreneur from the export of articles or things or services for certain consecutive assessment years.

It applies to an undertaking , which has begun or begins to manufacture or produce articles or things or services during the previous year relevant to the assessment year.

Essential conditions to be fulfilled-

- **Form of organisation** - This section does not provide for any particular form of organisation for running the undertaking. Thus undertaking can be operated as sole proprietorship, partnership firm, company etc.
- **Location of undertaking [section 10AA(1)]** - for being eligible to claim deduction under section 10AA, the undertaking must be located in any 'Special Economic Zone'.

- **Undertaking not eligible to claim deduction u/s 10AA** – The deduction under this section shall not be available to an undertaking , which has already availed ,the deduction referred in section 10A for ten consecutive assessment years.
- **What to manufacturer or produce [section 10AA(1)]** - The undertaking must manufacture or produce articles or things or provide any service. The term ‘manufacture’ shall have the same meaning as assigned to it in clause (r) of section 2 of Special Economic Zone Act 2005.

- **Commencement of operations [section 10AA(4)(i)**

It implies that undertaking must commence operations either during PY 2005-06 or in any subsequent year but upto 31-3-2021.

- **No Split up or reconstruction [section 10AA(4)(ii)-**

Such undertaking must not have been formed by splitting up, or reconstruction of a business already in existence. However this condition shall not be apply in respect of undertaking formed as a result of re-establishment and reconstruction or revival of such undertaking, in the circumstances and within the period as specified in section 33B.

Section 33B, deals with re-establishment, reconstruction or revival by the assessee of the business of an industrial undertaking.

❖ ***The specified reasons as per section 33B are:***

- I. flood, typhoon, cyclone, earthquake 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.

■ **Restriction on use of old plant and machinery**
[section 10AA(4)(iii) –

Any machinery or plant shall not be regarded as machinery or plant previously used, if-

- 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 plant and machinery has been allowed in computing the total income of any person.

- **Export out of India-** The undertaking must export out of India, the articles or things or services.
- **Receipt in India** - The sale proceeds of export must be received in India and if not received in India, then must be brought into India, in convertible foreign exchange within **6 months** from the end of relevant previous year.
- **Report of Chartered Accountant** – The assessee claiming the deduction must furnish , in prescribed **form No. 56F**, along with the return of income, the report of chartered accountant.

■ Amount of deduction -

| | Rate of deduction | Period of deduction |
|-----|--|---|
| (a) | 100% of profits & gains derived from export of articles or things or services. | 5 consecutive assessment years beginning with assessment year relevant to previous year in which unit begins to manufacturer. |
| (b) | 50% of profits & gains | For next 5 consecutive assessment years. |
| (c) | So much of the amount not exceeding 50% of profits as is debited to P&I account and credited to special economic zone re-investment reserve account. | For next 5 consecutive assessment years |

❖ ***Conditions- [section 10AA(2)]-***

- ***CREDIT OF THE AMOUNT TO SPECIAL ACCOUNT***
- ***UTILISATION OF RESERVE-*** for the purpose of acquiring new machinery or plant which is first put to use before the expiry of a **period of three years** following the previous year in which the reserve was created.
- ***FURNISHING PARTICULARS OF NEW P&M-*** assessee is required to furnish the particulars in respect of new P&M along with the return of income.

- **Withdrawal of benefit [section 10AA(3)] –**
 - I. Use of reserve for non specified purpose- if amount has been used for any purpose other than specified, the amount so utilised shall be deemed to be the profit of previous year in which amount was so utilised.
 - II. Non utilisation of reserve- if amount has not been utilised for specified purpose, the amount not so utilised shall be deemed to be profits of previous year immediately following the previous year in which the period of 3 years expires.

■ Calculation of profit derived from Export
[section 10AA(7)] –



Example -

Sancha Ltd. Located in a notified SEZ, is eligible to claim deduction u/s 10AA. The company started claiming this deduction from 2016-17. the company provides following information for P.Y. 2017-18 :-

Export sales= RS. 92,00,000

Domestic sales= Rs. 20,00,000

Profit of the business = Rs. 24,00,000

ADDITIONAL INFORMATION –

- Out of total export sales of Rs. 92,00,000 the co. has brought into India, convertible foreign exchange within stipulated time amounting to Rs. 80,00,000

Calculate deduction u/s 10AA.

Deduction u/s 10AA =

100% of [profit of business undertaking * export turnover / total turnover]

$$= 100\%[24,00,000 * 80,00,000 / 1,12,00,000]$$

$$= \text{Rs. } 17,14,286$$

Other Important Provisions

- *Carry forward and set-off of certain unabsorbed expenses related to tax holiday period [section 10AA(8)] –*

with effect from assessment year 2006-07 the following shall be carried forward and set-off in assessment years subsequent to tax holiday period:

1. depreciation u/s 32
2. expenditure on scientific research u/s 35
3. expenditure in relation to family planning.

- **Carry forward and set-off of losses relating to tax holiday period [section 10AA(80)] –**

Following losses of undertakings shall be allowed to be carried forward and set-off in assessment year subsequent in tax holiday period-

1. non speculation business loss u/s 72(1)
2. loss under the head 'Capital gains' u/s 74(1)

- **Duplication of deduction not allowed -**

undertaking claiming deduction u/s 10A shall not be allowed to claim deduction u/s 80HH, 80HHA, 80I, 80IA, 80IB.

- **Transfer of undertaking in amalgamation or demerger [sec 10 AA(5)]**- No deduction shall be admissible under this section to the amalgamation or demerger company for the previous year in which the amalgamation or demerger takes place.
- **Transfer of goods or services [sec 10AA(9)]**- where any goods and services held for eligible business are transferred to any other business of assessee or vice-versa, the consideration , if any shall be recorded in the books of eligible business at market value.

- **Power of assessing officer to recompute inflated profits [sec 10AA (9)]-**

Where Assessing officer is satisfied that the assessee carrying an eligible business has shown inflated profits, the assessing officer shall recompute the profits for the purpose of claiming the deduction.

REFERENCES

- Ahuja Girish (2019). “Systematic Approach to Income Tax”, Bharat Law House, New Delhi.
- Gaur, Narang and Puri (2019). “Corporate Tax Planning and Management”, Kalyani Publishers, Ludhiana.
- Mehrotra, H.C. (2019). “Income Tax Law and Practice”, Sahitya Bhawan Publications, Agra.



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