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FINAL CA

MAY '19
REVISION NOTES

DIRECT TAX

Part - 6

ASSESSMENT OF COMPANIES

1. Applicability of MAT

As per section 115JB(1), in case of company (domestic or foreign), if the income-tax payable on the total income computed under the Income-tax Act, 1961 is *less* than 18.5% of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of 18.5%

2. Maintenance of statement of profit and loss [Section 115JB(2)]

(a) Every company other than a company referred to in clause (b) of section 115JB(2) shall for the purpose of this section prepare its statement of profit and loss account for the relevant previous year in accordance with the provisions of Schedule III to the Companies Act, 2013 **[Clause (a) of section 115JB(2)].**

(b) Insurance companies, banking companies, companies engaged in generation or supply of electricity or any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company, shall for the purposes of this section, prepare its statement of profit and loss account for the relevant previous year in accordance with the provisions of the Act governing such company **[Clause (b) of section 115JB(2)].**

(c) The section also specifies that the statement of profit and loss account for the relevant previous year has to be computed in accordance with Schedule III to the Companies Act, 2013. Further, while preparing the annual accounts,-
   (i) The accounting policies,
   (ii) The accounting standards followed for preparing such accounts, including statement of profit and loss account
   (iii) The method and rates for calculating depreciation
   Shall be the same as have been adopted for the purpose of preparing such accounts including statement of profit and loss account and laid before the company at its annual general meeting.

(d) Where the financial year adopted by the company under the Companies Act, 20135 is different from the previous year under the Income-tax Act, 1961, the accounting policies, accounting standards and methods and rates adopted for calculating depreciation shall correspond to the accounting policies followed for preparing such accounts including statement of profit and loss account for the financial year.

3. Computation of book profit [*Explanation 1* below section 115JB(2)]

Positive Adjustment		Negative Adjustment	
Clause	**Particulars**	**Clause**	**Particulars**
(a)	Income-tax paid or payable, and the provision therefor;(Includes Surcharge, DDT, Health and education cess, interest under this Act)		
(b)	Amount carried to any reserves	(i)	**Amount withdrawn from any reserve** **Note -** the amount withdrawn from reserves/ provisions shall not be reduced from the book profit unless the book profit of preceding year or current year has been increased by those reserves/ provisions
(c)	Amounts set aside to provisions for **meeting liabilities** other than **ascertained liabilities**		
(d)	Provisions for losses of subsidiary companies		
(e)	Amount of dividends paid or proposed		
(f)	**Expenditure relatable to exempt income**	(ii)	Amount of income to which section 10 or sections 11 or 12 (section 10AA is not cover)
(fa)	**Expenditure relatable to share of an assessee in the income of an AOP or BOI**	(iic)	**Share of the assessee in the income of an AOPs or BOIs**
(fb)	**Expenditure relatable to income accruing to foreign company**	(iid)	**Income accruing to foreign company:** The amount of income accruing or arising to an assessee, being a foreign company, from, - (A) the capital gains arising on transactions in securities; or (B) the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII i.e., section 115A, if such income is credited to the statement of profit and loss account and the income-tax payable thereon in accordance with the provisions of the Income-tax Act, 1961, other than the provisions of Chapter XII-B, is at a rate less than 18.5%
(fc)	**Notional loss on the units of business trust:** The amount representing- - notional loss on transfer of a capital asset, being share or a special purpose vehicle to a business trust in exchange of units allotted by that trust;	(iif)	**Loss on transfer of units(Actual Loss)**

	or - notional loss resulting from any change in carrying amount of said units or - loss on transfer of such units		
(fd)	**Amount of expenditure relatable to income referred under section 115BBF**	(iig)	**Income by way of royalty taxable under section 115BBF**
(g)	The amount of depreciation	(iia)	The amount of depreciation debited to the statement of profit and loss account (excluding the claim of depreciation on account of revaluation of assets)
		(iib)	**Amount withdrawn from the revaluation reserve:** The amount withdrawn from the revaluation reserve and credited to the statement of profit and loss account, to the extent it does not exceed the amount of depreciation on revaluation of assets
(h)	**Deferred tax**	(viii)	**Deferred tax**
(i)	**Provision for diminution in the value of any asset**		
(j)	**Amount standing in the revaluation reserve**		
(k)	**Amount of gain arise on transfer units of business trust (Actual Gain)**	(iie)	**Notional gain on the units of business trust**: The amount representing – (A) the notional gain on transfer of a capital asset, being a share of a SPV to a business trust in exchange of units allotted by the business trust; (B) notional gain resulting from any change in carrying amount of said units; (C) gain on transfer of such units
		(iii)	**Brought forward loss or unabsorbed depreciation in case of other companies:** Amount of brought forward loss or unabsorbed depreciation, whichever is less, **in case of other companies** as per books of account.
		(iih)	**Brought forward and unabsorbed depreciation (**application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016**)**
		(vii)	**Profits of sick industrial company -** The amount of profits of a sick industrial company (BIFR company) commencing from the previous year in which the company became sick and ending with the assessment year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Section 115JB(3) - Allow ability of carry forward of losses
In respect of the relevant previous year, the amounts determined under the provisions of section 32(2) or section 72(1)(ii) or section 73 or section 74 or section 74A(3), shall be allowed to be carried forward.

Section 115JB(4) - Compulsory filing of return of income and furnishing of report from Chartered Accountant

[Section 115JB(5)] - All other provisions of the Act shall apply to every assessee, being a company mentioned in this section.

SECTION 115JB(5A) - Non-applicability of MAT on income arising from life insurance business

Section 115JB(7) - Concessional rate of MAT for unit located in IFSC
In case of a company, being a unit located in International Financial Services Centre and deriving its income solely in convertible foreign exchange, the minimum alternate tax shall be chargeable at the rate of 9% instead of 18.5%.

Explanation 4 to section 115JB - Non-applicability of MAT in respect of certain foreign companies
The foreign company is a resident of a country or a specified territory with which India has a DTAA under section 90(1) or the Central Government has adopted any agreement between specified associations for double taxation relief under section 90A(1) and It should not have a permanent establishment in India in accordance with the provisions of such Agreement.

MAT AND IND AS

MAT on Ind AS compliant financial statement [Section 115JB(2A)]
In case of a company whose financial statements are drawn up in compliance with the Indian Accounting Standards (Ind ASs) the following additional adjustments shall be done to the book profit as computed

Explanation 1-
(a) Increased by all amounts credited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";
(b) Decreased by all amounts debited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";
However, no adjustment shall be made where the amount credited or debited to other comprehensive income under the head "Items that will not be re-classified to profit or loss", in respect of —
   (i) Revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38; or
   (ii) Gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109. **[First proviso to section 115JB(2A)]**

However, the book profit of the previous year, in which such asset or investment is retired, disposed, realised or otherwise transferred, shall be increased or decreased, as the case may bE **[Second proviso to section 115JB(2A)]**

(c) Increased by amounts or aggregate of the amounts debited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10;

(d) Decreased by all amounts or aggregate of the amounts credited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10;

Appendix A of Ind AS 10 provides that any distributions of non-cash assets to shareholders in a demerger shall be accounted for at fair value. The difference between the carrying value of the assets and the fair value is recorded in the profit and loss account.

II. Sub-section (2B) states that in demerger, in the case of a resulting company, the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this section.

III. MAT on first time adoption [Section 115JB(2C)]:

In case of Ind AS compliant company, the book profit of the year of convergence and each of the following four previous years, shall be further increased or decreased, as the case may be, by one fifth of the **transition amount**.

Transition amount

The amount or aggregate of the amounts adjusted in other equity (excluding capital reserve and securities premium reserve) on convergence date but not including the following:

(A) Amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit and loss;

(B) Revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(C) Gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109 adjusted on the convergence date;

(D) Adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost in accordance with paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(E) Adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost in accordance with paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(F) Adjustments relating to cumulative translation differences of a foreign operation in accordance with paragraph D13 of the Indian Accounting Standards 101 on the convergence date. **[clause (iii)]**