

Bombay Chartered Accountants' Society

Direct Tax Alert – Taxation Laws (Amendment) Bill, 2016

The Hon'ble Finance Minister, Arun Jaitley, on 10 August 2016 introduced a "Taxation Laws (Amendment) Bill, 2016 a new Bill that seeks to amend the Income-tax Act, 1961 ('the Act') as passed by the Lok Sabha (Lower House of Parliament) which would be enacted into law after it is passed by the Rajya Sabha (Upper House of the Parliament) and receives assent of the President of India are outlined below.

Key amendments in the Act by way of proposed Bill:

- **Section 2(19AA) – “Demerger”**

It has been proposed to widen the scope of the definition of “demerger” under the provisions of the Act to include within its ambit the splitting up of or the reconstruction of a public sector company, which ceases to be so as a result of transfer of its shares.

The same has been proposed by way of inserting a clarificatory Explanation 5 in section 2, in clause (19AA) w.e.f 1 April 2017, the relevant extract of which is reproduced hereunder:

"Explanation 5.—For the purposes of this clause, the reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if such reconstruction or splitting up has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as may be notified by the central Government in the Official Gazette."

BCAS' Comments

It is a welcome move to provide relaxation by way of widening the scope of definition of demerger for tax neutrality in matters relating to transfer of capital asset, carry forward of loss, claim of certain deductions, etc in case of demerger (split) of public sector undertakings into multiple companies, since the resultant company will be no longer a public sector company.

Further, in the Statement of Objects and Reasons, it has been stated that with a view of to facilitate the splitting up or the reconstruction of erstwhile public sector companies and to give effect to the conditions attached to the transfer of shares by the Government, there is a need to bring these types of splitting up or the reconstruction within the scope of definition of the term “demerger”.

- **Section 80JJAA - Deduction in respect of employment of new workmen.**

It has been proposed to further relax the rules specifically for the business of manufacturing apparel for availing the income tax benefits on additional employment created.

"In view of the seasonal nature of the business of the manufacturing of apparel, there is need to reduce the period of employment of an employee who is employed in this business from 240 days to 150 days," said the Statement of Objects and Reasons of the Bill.

The same has been proposed by way of inserting a proviso in sub-section (2), in the *Explanation*, after clause (ii), w.e.f 1st April 2017. The same is reproduced hereunder:

'Provided that in the case of an assessee who is engaged in the business of manufacturing of apparel, the provisions of sub-clause (c) shall have effect as if for the words "two hundred and forty days", the words "one hundred and fifty days" had been substituted.'

It appears that since Indian garments are generally summer garments and there is hardly any export of woolen garments and therefore, with a view to help the textiles industry to remain healthy and survive, such tax benefits have been proposed to be given.

BCAS' Comments

The amendments proposed in the Bill will significantly favorably impact the business of apparel manufacturers considering the geographic conditions i.e. nature of raw material and market. Hence, it is a welcome move for garment industry which in a way also supports the "**Make in India**" campaign.

Source: The Taxation Laws (Amendment) Bill, 2016