

F. No. 142/20/2019-TPL

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

New Delhi, 2nd of October, 2019

Subject: Clarifications in respect of option exercised under section 115BAA of the Income-tax Act, 1961 inserted through The Taxation Laws (Amendment) Ordinance, 2019- reg.

The Taxation Laws (Amendment) Ordinance, 2019 (the Ordinance) has been promulgated by the President of India on September 20, 2019. The Ordinance, *inter alia*, inserted a new section 115BAA in the Income-tax Act, 1961 (the Act) with effect from April 1, 2020.

2. Section 115BAA so inserted, *inter alia*, provides that,-

- (d) a domestic company shall, at its option, pay tax at a lower rate of 22 per cent for any previous year relevant to the Assessment Year beginning on or after 1st April 2020, subject to certain conditions, including that the total income should be computed without claiming any deduction or exemption;
- (e) the option is required to be exercised by the company before the due date of furnishing return of income; and
- (f) the option, once exercised, cannot be subsequently withdrawn and shall apply to all subsequent assessment years.

3. The Ordinance also amended section 115JB of the Act relating to Minimum Alternate Tax (MAT) so as to, *inter alia*, provide that the provisions of said section shall not apply to a person who has exercised the option referred to under newly inserted section 115BAA.

4. Representations have been received from the stakeholders seeking clarification on following issues relating to exercise of option under section 115BAA:

- (a) Allowability of brought forward loss on account of additional depreciation; and
- (b) Allowability of brought forward MAT credit.

4.1 These issues have been examined in the Board and in order to provide clarity in the matter, the clarifications are issued in following paras.

5.1 As regards allowability of brought forward loss on account of additional depreciation, it may be noted that clause (i) of sub-section (2) of the newly inserted section 115BAA, *inter alia*, provides that the total income shall be computed without claiming any deduction under clause (iia) of sub-section (1) of section 32 (additional depreciation); and clause (ii) of the said sub-

section provides that the total income shall be computed without claiming set off of any loss carried forward from any earlier assessment year if the same is attributable, *inter alia*, to additional depreciation.

5.1.1 Therefore, a domestic company which would exercise option for availing benefit of lower tax rate under section 115BAA shall not be allowed to claim set off of any brought forward loss on account of additional depreciation for an Assessment Year for which the option has been exercised and for any subsequent Assessment Year.

5.1.2 Further, as there is no time line within which option under section 115BAA can be exercised, it may be noted that a domestic company having brought forward losses on account of additional depreciation may, if it so desires, exercise the option after set off of the losses so accumulated.

5.2 As regards allowability of brought forward MAT credit, it may be noted that as the provisions of section 115JB relating to MAT itself shall not be applicable to the domestic company which exercises option under section 115BAA, it is hereby clarified that the tax credit of MAT paid by the domestic company exercising option under section 115BAA of the Act shall not be available consequent to exercising of such option.

5.2.1 Further, as there is no time line within which option under section 115BAA can be exercised, it may be noted that a domestic company having credit of MAT may, if it so desires, exercise the option after utilising the said credit against the regular tax payable under the taxation regime existing prior to promulgation of the Ordinance.

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