



## The lower house of the Parliament passes the Taxation Laws (Amendment) Bill, 2016

### Background

Recently, the Finance Minister introduced the Taxation Laws (Amendment) Bill, 2016 (the Bill) and the same has been passed by the lower house of the Parliament. The Bill proposes to amend the Income-tax Act, 1961 (the Act). The amendments proposed in the Bill are summarised as follows:

### Split-up or reconstruction of a company, which ceased to be a public sector company, to be included in the definition of 'demerger'

The existing provisions of the Act provide for tax neutrality in matters relating to the transfer of capital asset, carry forward of loss, the claim of certain deductions, etc., in the case of the demerger of entities. The definition of the term 'demerger' provided in Section 2(19AA) of the Act, does not include in its scope, the splitting up or the reconstruction of a company, which ceased to be a public sector company as a result of transfer of its shares by the government, into separate companies, even if such split up or reconstruction has been made to give effect to the conditions attached to the said transfer of shares by the government.

With a view 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, the Bill proposes to include Explanation 5 under Section 2(19AA) of the Act to provide that 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.

### Deduction under Section 80JJAA of the Act

Section 80JJAA of the Act was substituted by the Finance Act, 2016, so as to provide that in the case of certain taxpayers, in computing profits and gains derived from business, the deduction shall be allowed for an amount equal to thirty per cent. One of the conditions provides that the employee should be employed for a period of not less than 240 days during the previous year. In view of the seasonal nature of the business of manufacturing of apparel, there is a need to reduce the period of employment of an employee who is employed in this business from 240 to 150 days during the previous year.

The Bill proposes to relax conditions provided in Section 80JJAA of the Act by reducing the minimum period of employment condition from 240 to 150 days in case of the taxpayer engaged in apparel manufacturing business.

### Our comments

The existing provisions of the Act provide for tax neutrality in matters relating to the transfer of capital asset, carry forward of loss, the claim of certain deductions, etc., in the case of the demerger of entities. However, the definition of the term 'demerger' provided in the Act, does not include in its scope, the splitting up or the reconstruction of a company, which ceased to be a public sector company as a result of transfer of its shares by the government, into separate companies, even if such split up or reconstruction has been made to give effect to the conditions attached to the said transfer of shares by the government. The Bill seeks to include, in the definition of 'demerger', the splitting up of or the reconstruction of a company, which ceases to be a public sector company.

In the recent past, the Union cabinet approved a special package for employment generation and promotion of exports in the textile and apparel sector, in line with its commitment to generate one crore jobs in textile and apparel industry over next three years. The Bill seeks to enhance the scope of deduction under Section 80JJAA of the Act by looking at the seasonal nature of apparel manufacturing industry. Accordingly, the condition with respect to employment period has been proposed to be reduced from 240 days under Section 80JJAA of the Act to 150 days for apparel manufacturing industry.



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