CBDT clarifies the term 'initial assessment year' under Section 80-IA of the Income-tax Act

Background

- Section 80-IA of the Income-tax Act, 1961 (the Act), provides for deduction of an amount equal to 100 per cent of the profits and gains derived by an undertaking or enterprise from an eligible business in accordance with the prescribed conditions.

- Section 80-IA(2) of the Act provides that the aforesaid deduction can be claimed by the taxpayer, at his option, for any ten consecutive assessment years out of fifteen years (twenty years in specified cases) beginning from the year in which the undertaking commences operation, begins development or starts providing services, etc. as stipulated therein. Section 80-IA(5) of the Act provides that profits and gains of an eligible business shall be computed as if such business was the only source of income of the taxpayer during the previous year relevant to the initial assessment year.

- Recently, the Central Board of Direct Taxes (CBDT) issued a Circular clarifying the term ‘initial assessment year’ in Section 80-IA(5) of the Act.

The Circular is summarised as follows:

CBDT Circular

- It was represented to the CBDT that some Assessing Officers (AOs) are interpreting the term ‘initial assessment year’ as the year in which the eligible business/manufacturing activity had commenced and was considering such first year of commencement/operation, etc. itself as the first year for granting deduction. These AOs are ignoring the clear mandate provided under Section 80-IA(2) of the Act which allows a choice of the taxpayer for deciding the year from which it desires to claim deduction out of the applicable slab of fifteen or twenty years.

- It is clear from Section 80-IA(2) that a taxpayer who is eligible to claim deduction under Section 80-IA of the Act has the option to choose the initial/first year from which it may desire the claim of deduction for ten consecutive years, out of a slab of fifteen (or twenty) years.

- Once such initial assessment year has been opted for by the taxpayer, he shall be entitled to claim deduction under Section 80-IA of the Act for ten consecutive years beginning from the year in respect of which he has exercised such option, subject to the fulfillment of conditions.

1 CBDT Circular No. 1/2016, dated 15 February 2016
The CBDT has clarified that 'initial assessment year' under Section 80-IA would mean the first year opted for by the taxpayer for claiming the deduction. Further, once such initial assessment year has been opted for by the taxpayer, he shall be entitled to claim deduction under Section 80-IA of the Act for ten consecutive years beginning from the year in respect of which he has exercised such option.

Our comments

The issue with respect to the interpretation of the term 'initial assessment year' has been a matter of debate. In the case of Poonawalla Estate Stud & Agro Farm (P.) Ltd., the windmill owned by the taxpayer started generating electricity from the Assessment Year (AY) 2002-03, but the taxpayer chose the AY 2004-05 as its initial assessment year and claimed deduction under Section 80-IA of the Act in that year. The Pune Tribunal held that the statute has granted the option to choose initial assessment year, and therefore, no fault could be found with the taxpayer in selecting the initial assessment year. Similarly, the Ahmedabad Tribunal in the case of Sadbhav Engineering Ltd. held that where a newly established undertaking started earning profit after few years, the taxpayer can claim deduction under Section 80-IA of the Act by treating such subsequent year as the initial assessment year.

2 Poonawalla Estate Stud & Agro Farm (P.) Ltd. v. ACIT (2012) 20 taxmann.com 309 (Pune)
3 Sadbhav Engineering Ltd. v. DCIT (2014) 45 taxmann.com 333 (Ahd)
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