



INCOME TAX ALERT

N. A. SHAH **BULLETIN**

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EXECUTIVE SUMMARY

Indexation benefit is allowed while computing long-term capital gains exempt u/s 10(38) for the purpose of computation of book profits u/s 115JB of the Act

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Bangalore ITAT in case of Karnataka State Industrial Infrastructure Development Corporation Ltd. vs. DCIT, Bengaluru

ITA No. 1659, 1660, 1861 & 1862/Bang/2013

Facts:

- i. The assessee is a Government of Karnataka undertaking, incorporated under the provisions of the Companies Act, 1956. It is engaged in the business of rendering financial assistance to set up industries in Karnataka.
- ii. The assessee computed its tax liability on book profits under section 115JB of the Act. While computing book profit, the assessee has added LTCG {exempt u/s 10(38) of the Act} computed after claiming indexed cost of acquisition.
- iii. However, the learned AO while computing book profit u/s 115JB has considered LTCG computed without indexing the cost of acquisition.
- iv. Aggrieved, the assessee filed an appeal before CIT(A). CIT(A) confirmed the order of the learned AO .

Issue:

Whether indexation benefit is available on LTCG exempt u/s 10(38) while computing the book profits u/s 115JB of the Act?

Held:

- i. ITAT observed that provision of section 115JB of the Act states that exempt income other than that covered by sections 10(38) is required to be reduced while computing book profits u/s 115JB of the Act.
- ii. The term 'any income' as used in section 10(38) of the Act refers only to the amount of long-term capital gains computed under the provisions of section 48 of the Act. Hence, the benefit of cost of indexation on the cost of acquisition should be allowed to the assessee while computing long-term capital gain for the purpose of computing tax liability u/s 115JB of the Act.

- iii. Further, ITAT relied on the decision of co-ordinate bench in case of **M.S.R & Sons Investments Ltd vs. DCIT (ITA No 769/Bang/2008)** which has also been **confirmed by the Hon'ble jurisdictional High Court** and held that the assessee is entitled to the benefit of indexation while computing long-term capital gains for the purpose of computing the tax liability u/s 115JB of the Act.

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