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L.B. Part IIIrd
Paper - VIIIth
Taxation

Deduction in respect of royalty on patents (Section 80RRB). -

(1) where in the case of an assessee, being an individual, who is -

(a) resident in India

(b) a patentee;

(c) in respect of any income by way of royalty in respect of a patent registered on or after the first day of April 2003 under the Patents Act 1970, and

his gross total income of the previous year includes royalty, there shall, in accordance with and subject to the provisions of this section be allowed a deduction, from such income, of an amount equal to the whole of such income of three lakh rupees, whichever is less.

Provided that where a compulsory licence is granted in respect of any patent under the Patents Act 1970, the income by way of royalty for the purpose of (this section as is) allowing deduction under this section shall not exceed the

(2)

amount of royalty under the terms and conditions of a licence settled by the Controller under this (Section) Act.

Provided further that in respect of any income earned from any source out side India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of the assessee in convertible foreign exchange within a period of six month such further period as the competent authority referred to in clause (c) of the Explanation to section 80QBB may allow in this behalf.

(2) No deduction under this section shall be allowed unless the assessee furnish a certificate in the prescribed form duly signed by the prescribed authority, along with the return of the income setting forth such particulars as may be prescribed.

(3) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the prescribed form, from the authority or authority as may be prescribed, along with the return of income.

(3)

(4) Where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed, under any other provisions of this Act in any assessment year.

Explanation:— For the purposes of this section,

(a) "Controller" shall have the meaning assigned to it in clause (w) of sub-section (1) of section (2) of the Patents Act 1970,

(b) "lump sum" includes an advance payment on account of such royalties which is not returnable;

(c) "patent" means a patent (including a patent of addition) granted under the Patents Act 1970;

(d) "patentee" means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee in accordance with the Patents Act 1970, and includes every such person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee under that Act in respect of that patent;

(e) "patent of addition" shall have the meaning assigned to it in clause (q) of sub-section (1) of section 2 of Patents Act 1970;

(f) "patented article" and "patented process"

shall have the meaning respectively assigned to them in clause (a) of sub-section (1) of section 2 of the Patents Act 1970:

(8) "royalty" in respect of a patent means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or of the patented article for commercial use) for-

(i) the transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(ii) the imparting of any information concerning the working of or the use of, a patent; or

(iii) the use of any patent; or

(iv) the rendering of any other services in connection with the activities referred to in sub-section (1) clause (i) to (iii);

(b) "true and first invention" shall have the meaning assigned to it in clause (g) of sub-section (1) of section 2 of the Patents Act 1970.