

**कार्यालय, आय कर निदेशक (छूट)**  
**छठी मंजिल, पीरामल चैम्बर्स, लालबाग मुंबई ४०००१२.**

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आयकर अधिनियम की धारा ८०-जी के अन्तर्गत प्रमाणपत्र (01/04/2008 से 31/03/2011 तक वैध)

(प्रारंभिक /नवीकरण)

मेरे समक्ष प्रस्तुत किए गए तथ्यों के अवलोकन /आवेदक के मामले की सुनवाई के पश्चात् मैं इस निर्णय पर पहुँचा हूँ कि उक्त संस्था ने आयकर अधिनियम की धारा ८०-जी के अन्तर्गत उपधारा (५)के की शर्तों को पूरा किया है. निम्नांकित किसी शर्त की अवज्ञा दुरुपयोग कमी या उल्लंघन की स्थिति में कानून के अनुसार ये सुविधाएँ दाता संस्थान द्वारा जब्त कर ली जायेंगी. संस्था को ८०-जी की यह छूट निम्न शर्तों पर दी जाती है

- i) संस्था अपनी लेखा पुस्तकें नियमित रूप से बनाए रखेगी और उनका परीक्षण आयकर अधिनियम की धारा ८०-जी (5) (iv) के अधीन - धारा १२ए (बी) - के अनुपालन के साथ करवायेगी.
- ii) दानदाताओं की दी जाने वाली रसीद पर इस आदेश की संख्या एवं दिनांक अंकित की जायेगी और उस पर यह स्पष्ट रूप से छपवाया जायेगा कि यह प्रमाणपत्र कब तक वैध है.
- iii) न्यास /संस्था के विलेख (deed)में परिवर्तन कानूनी प्रक्रिया के अनुरूप ही किया जायेगा और इसकी सूचना इस कार्यालय को तत्काल दी जायेगी.
- iv) यदि संस्था धारा ८०-जी के प्रावधानों के अन्तर्गत धारा १२(ए), धारा १२ए(१)(बी)के अन्तर्गत पंजीकृत है अथवा संस्था ने धारा १०(२३), १०(२३सी)-(vi)-(vi-ए) के अंतर्गत मंजूरी प्राप्त कर ली है तो धारा ८०-जी(५)(i)(ए)के अधीन किसी व्यवसायिक गतिविधि चलाने के लिए संस्था को अलग से लेखा पुस्तकें रखनी होंगी. साथ ही ऐसी गतिविधि शुरू होने की तारीख के एक माह के भीतर उसकी सूचना इस कार्यालय को देनी होगी.
- v) धारा ८०-जी के प्रावधानों के अंतर्गत प्राप्त दानराशि का किसी व्यवसाय हेतु प्रत्यक्ष या अप्रत्यक्ष रूप से उपयोग नहीं किया जायेगा
- vi) संस्था दानदाता को प्रमाणपत्र जारी करते समय ऊपर वर्णित प्रतिबद्धता का आदर करेगी और यह सुनिश्चित करेगी कि प्रमाणपत्र का दुरुपयोग या अन्य किसी प्रयोजन के लिए उपयोग न हो.
- vii) संस्था यह सुनिश्चित करेगी कि किसी गैर न्यासी प्रयोजन के लिए न्यास या सोसायटी या गैर-लाम-कंपनी द्वारा इसका उपयोग नहीं किया जाएगा और न ही इसके उपयोग की कोशिश की जाएगी.
- viii) संस्था यह सुनिश्चित करेगी कि किसी भी सूरत में संस्था या उसकी निधि का उपयोग धारा ८०-जी (५)(iii) के अधीन निषिद्ध किसी विशेष धर्म या जाति या समुदाय के लाभ के लिए नहीं किया जायेगा.
- ix) संस्था को न्यास या सोसायटी या गैर-लाम-कंपनी के प्रबंधक न्यासी या प्रबंधक के बारे में बताए और बताए गए देशों को पूरा करने के लिए न्यास या संस्था के क्रिया कलाप कहाँ किए जा रहे हैं या किए जाने की संभावना है इसकी सूचना इस कार्यालय एवं निर्धारण अधिकारी को देनी होगी.
- x) यदि नवीकरण के लिए कार्यालय से संपर्क नहीं किया गया हो तो आस्तियों का प्रयोग किस प्रकार किया जायेगा या किन उद्देश्यों के लिए प्रयोग किया जायेगा इस संबंध में इस कार्यालय को तुरंत सूचित किया जायेगा.
- xi) धार्मिक व्यय कुल आय के ५% से अधिक नहीं होगा. आयकर अधिनियम १९६१, की धारा ८० जी के अन्तर्गत प्रमाणपत्र न्यास या संस्था की आय को अपने आप छूट नहीं देता.

प्रतिलिपि - १.) आयकर



— ३० —  
(आर. के. सिन्हा)

आयकर निदेशक (छूट), मुंबई.

मनु  
(मनुलाल वैठा)

आयकर अधिकारी (तकनीकी), मुंबई.

## Weighted deduction for in-house research and development

Under the existing provisions of the Income-tax Act under sub-section (2AB) of section 35, weighted deduction of 150 per cent, is allowed to a company engaged in the business of biotechnology or in the business of manufacture or production of drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board and which has incurred expenditure (excepting on land and building) on in-house scientific research and development facility approved by the prescribed authority.

With a view to promoting research and development in all sectors of the economy, it is proposed to extend the benefit of weighted deduction to companies engaged in the business of manufacture or production of an article or thing except those specified in the Eleventh Schedule of the Income-tax Act.

The proposed amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. In other words, expenditure on research and development incurred by the company during the financial year 2009-2010, will be eligible for aforesaid weighted deduction under section 35(2AB) of the Income-tax Act.

[Clause 12]

## Donations to Certain Funds, Charitable Institutions, etc.

Section 80G of the Income-tax Act, 1961 provides for a deduction in respect of donations to certain funds, charitable institutions, etc. subject to, inter alia, the condition that such institutions and trusts are established for 'charitable purpose'.

Consequent to the amendment of sub-section (15) of section 2 by the Finance Act 2008 a number of organizations have ceased to be charitable for the purposes of the Income-tax Act. However, such institutions and trusts continued to collect donation during the financial year 2008-2009 for funding relief work for floods in Bihar and other public purposes. The donors made these donations under a bonafide belief that they would be entitled to benefit under section 80-G. With a view to mitigate hardship to the donors, it is proposed to give a onetime relaxation and amend sub-section (5) of section 80G of the Income-tax Act so as to provide that where an institution or fund has been approved under clause (vi) of sub-section 5 of section 80G for the previous year beginning on the 1st day of April 2007 and ending on the 31st day of March, 2008, such institution or fund shall, notwithstanding anything contained in the proviso to clause (15) of section 2, be deemed to have been,

- (a) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009;
- (b) approved under the said clause (vi) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009.

This amendment will take effect from 1st day of April, 2009 and shall accordingly, apply in relation to assessment year 2009-10 only.

Further as per clause (vi) of sub-section (5) of section 80G of the Income-tax Act, 1961, the institutions or funds to which the donations are made have to be approved by the Commissioner of Income-tax in accordance with the rules prescribed in rule 11AA of the Income-tax Rule, 1962. The proviso to this clause provides that any approval granted under this clause shall have effect for such assessment year or years, not exceeding five assessment years, as may be specified in the approval.

Due to this limitation imposed on the validity of such approvals, the approved institutions or funds have to bear the hardship of getting their approvals renewed from time to time. This is unduly burdensome for the bonafide institutions or funds and also leads to wastage of time and resources of the tax administration in renewing such approvals in a routine manner.

Therefore, it is proposed to omit the proviso to clause (vi) of sub-section (5) of section 80G to provide that the approval once granted shall continue to be valid in perpetuity. Further, the Commissioner will also have the power of withdraw the approval if the Commissioner is satisfied that the activities of such institution or fund are not genuine or are not being carried out in accordance with the objects of the institution or fund.

This amendment will take effect from 1st day of October, 2009. Accordingly, existing approvals expiring on or after 1st October, 2009 shall be deemed to have been extended in perpetuity unless specifically withdrawn. However, in case of approvals expiring before 1st October, 2009, these will have to be renewed and once renewed these shall continue to be valid in perpetuity, unless specifically withdrawn.

[Clause 35]

## Power to withdraw approvals

Under the existing provisions of Income-tax Act, an approval is required to be granted by income-tax authority for availing of various incentives by the assessee. While some provisions of Income-tax Act specifically contain provisions for withdrawal of approval but in many cases there is no such specific provisions containing power of withdrawal.

In order to provide explicit provisions for power to withdraw of approval, it is proposed to insert a new section 293C to provide that an approval granting authority shall also have the powers to withdraw the approval at any time. However, such withdrawal can be made only after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned assessee.

This amendment will take effect from 1st October, 2009.

[Clause 75]

## Power to Issue Zero Coupon Bonds

Under the existing provision of clause (48) of section 2, only infrastructure capital company or infrastructure capital fund or public sector company are empowered to issue zero coupon bonds when they are authorized to do so.