

Tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

115ACA. [(1) Where the total income of an assessee, being an individual, who is a resident and an employee of an Indian company engaged in specified knowledge based industry or service, or an employee of its subsidiary engaged in specified knowledge based industry or service (hereafter in this section referred to as the resident employee), includes—

- (a) income by way of dividends [, other than dividends referred to in section 115-O,] on Global Depository Receipts of an Indian company engaged in specified knowledge based industry or service, issued in accordance with such Employees' Stock Option Scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf and purchased by him in foreign currency; or
- (b) income by way of long-term capital gains arising from the transfer of Global Depository Receipts referred to in clause (a),

the income-tax payable shall be the aggregate of—

- (i) the amount of income-tax calculated on the income by way of dividends [, other than dividends referred to in section 115-O,] in respect of Global Depository Receipts referred to in clause (a), if any, included in the total income, at the rate of ten per cent;
- (ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (b), if any, at the rate of ten per cent; and
- (iii) the amount of income-tax with which the resident employee would have been chargeable had his total income been reduced by the amount of income referred to in clauses (a) and (b).

Explanation.—For the purposes of this sub-section,—

(a) "specified knowledge based industry or service" means—

- (i) information technology software;
 - (ii) information technology service;
 - (iii) entertainment service;
 - (iv) pharmaceutical industry;
 - (v) bio-technology industry; and
 - (vi) any other industry or service, as may be specified by the Central Government, by notification in the Official Gazette;
- (b) "subsidiary" shall have the meaning assigned to it in section 4 of the Companies Act, 1956 (1 of 1956) and includes subsidiary incorporated outside India.]

(2) Where the gross total income of the resident employee—

- (a) consists only of income by way of dividends [, other than dividends referred to in section 115-O,] in respect of Global Depository Receipts referred to in clause (a) of sub-section (1), no deduction shall be allowed to him under any other provision of this Act;
- (b) includes any income referred to in clause (a) or clause (b) of sub-section (1), the gross total income shall be reduced by the amount of such income and the deduction under any

provision of this Act shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(3) Nothing contained in the first and second provisos to section 48 shall apply for the computation of long-term capital gains arising out of the transfer of long-term capital asset, being Global Depository Receipts referred to in clause (b) of sub-section (1).

Explanation.—For the purposes of this section,—

- (a) "Global Depository Receipts" means any instrument in the form of a depository receipt or certificate (by whatever name called) created by the Overseas Depository Bank outside India and ¹[issued to investors against the issue of,—
 - (i) ordinary shares of issuing company, being a company listed on a recognized stock exchange in India; or
 - (ii) foreign currency convertible bonds of issuing company;]
- (b) "information technology service" means any service which results from the use of any information technology software over a system of information technology products for realising value addition;
- (c) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form and capable of being manipulated or providing inter-activity to a user, by means of an automatic data processing machine falling under heading information technology products but does not include non-information technology products;
- (d) "Overseas Depository Bank" means a bank authorised by the issuing company to issue Global Depository Receipts against issue of Foreign Currency Convertible Bonds or ordinary shares of the issuing company.

¹ Substituted with effect from April 1, 2016