



1961 on the basis of the certificate issued by the Drawing and Disbursing Officer (DDO)/Employer in this behalf.—Vide Circular No. 2/2005, dt. 12-1-2005.

15. **Donation to certain funds, charitable institutions, etc.—Eligibility for deduction**  
1. The Central Government specified "Archery Association of India", New Delhi, as an association, for the purposes section 80G(2)(c).—Vide Notification No. 211/2005, dt. 6-10-2005.

2. The Central Government declared the "Umrigar Agiary" complex situated at Pachani, Vadodara and "Dokhma Complex" situated at Vishwamitri, Vadodara owned by Parsi Panchayat Charitable Fund, Vadodara to be a place of public worship of renown throughout the State of Gujarat.

This notification will be valid only for the repair or renovation work to the extent of rupees five lakhs only per year on the donation for the purpose of said section.—Vide Notification No. 26/2009, dt. 16-3-2009.

3. The Central Government specified "Archery Association of India", New Delhi, as the association, for the purposes of section 80G(2)(c) for the assessment years 2010-11 to 2012-2013.—Vide Notification No. 68/2010, dt. 5-8-2010.

16. **Clarification regarding period of validity of approvals issued under section 80G(5) of the Income Tax Act**

The Board has received various references from the field formations as well as members of public about the period of validity of approvals granted by the Chief Commissioners of Income Tax or Directors General of Income Tax under sub-clauses (vi), (v), (vi) and (vii) of section 10(23C) and by the Commissioners of Income Tax or Directors of Income Tax under section 80G (5) of the Income Tax Act, 1961.

2. It has also been noticed by the Board that different field authorities are interpreting the provisions relating to the period of validity of the above approvals in a different manner. The following instructions are accordingly issued for the removal of doubts about the period of validity of various approvals referred to above.

3. As regards approvals granted upto 1-10-2009 under Section 80G by the Commissioners of Income Tax/Directors of Income Tax, proviso to Section 80G(5)(vi) clarified that any approval shall have effect for such assessment year or years not exceeding five assessment years as may be specified in the approval. The above proviso was deleted by the Finance (No. 2) Act 2009. The intent behind the deletion of above proviso as explained in the explanatory memorandum to Finance (No.2) Bill, 2009 was as under:

"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 bona fide 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.

It appears that some doubts still prevail about the period of validity of approval under section 80G subsequent to 1-10-2009, especially in view of the fact that no corresponding change has been made in Rule 11A(4). To remove any doubts in this regard, it is reiterated that any approval under section 80G (5) on or after 1-10-2009 would be a one time approval which would be valid till it is withdrawn.—Vide Circular No. 7/2010, dt. 27-10-2010.

#### SECTION 80GG : DEDUCTION IN RESPECT OF RENTS PAID

1. **Non availability of exemption under section 10(13A) and not owning of any residential accommodation necessary pre-requisite for deduction under section 80GG**

Two important conditions which should be satisfied before an assessee is entitled to deduction under section 80GG are :

- The assessee should not be in receipt of any House Rent Allowance which may be entitled to exemption under section 10(13A); and
- The assessee or his spouse or minor child or where the assessee is a member of an HUF, the HUF itself should not own any residential accommodation whatsoever.—Vide Circular No. 327, dt. 8-2-1982.

2. **Total income' referred under Explanation—Meaning of**

The total income would be the total income of the assessee after allowing all deductions except the one provided under section 80GG itself. To illustrate, if an assessee is a salaried employee, the total income for the purposes of section 80GG will be arrived at after allowing the standard deduction under section 16(f) and the deduction under section 80G, etc.—Vide Circular No. 327, dt. 8-2-1982.

#### SECTION 80-IA : DEDUCTION IN RESPECT OF PROFITS AND GAINS FROM INDUSTRIAL UNDERTAKING ENGAGED IN INFRASTRUCTURE DEVELOPMENT, ETC.

1. **B-O-I-T Scheme of the Indian Railways shall be eligible for the benefit of section 80-IA of the Income Tax Act, 1961, since it is not legally possible for any enterprise other than the Indian Railways to maintain and operate a Railway System. However, this concession shall be applicable only to an infrastructure facility meant for development of Rail System and not to any other infrastructure facility including Rolling Stocks.**—Vide Circular No. 733<sup>1</sup>, dt. 3-1-1996.

2. **Inland Container Depot (ICD) and Central Freight Station (CFS) notified as infrastructure facility**

CBDT notified Inland Container Depot (ICD) and Container Freight Station (CFS) as infrastructure facility. Subject to condition that such places are notified as Inland Container Depot and Central Freight Station under section 7(aa) of the Customs Act, 1962.—Vide Notification No. 10682, dt. 1-9-1998<sup>2</sup> as amended by Notification No. 10942, dt. 28-5-1999.

3. **Scheme to develop, operate and maintain Special Economic Zone**

CBDT specified scheme to develop, operate and maintain SEZ for purposes of section 80-IA read with rule 18C(2).—Vide Notification No. S.O. 1001(f), dt. 24-1-2002.

4. **Industrial Park Scheme**

The Central Government notified the Industrial Park Scheme in terms of section 80-IA(4)(iii).—Vide Notification No. 3/2008, dt. 8-1-2008 as amended by Notification No. 76/2008, dt. 2-7-2008.

<sup>1</sup> This circular was issued under the then existing section 80-IA, which was later on substituted by two sections 80-IA and 80-IB. As the provisions are more or less of similar nature, hence, we are of the view that this circular would be applicable even at present.—Authors.