

DIRECT TAX

Circular No. 11 /2019

Date - 19.06.2019

Clarification regarding non-allowability of set-off of losses against the deemed income under section 115BBE of the Income-tax Act, 1961 prior to assessment-year 2017-18-reg

As per section 115BBE , sub-section (2) of of the Income-tax Act, 1961 (Act) provides that where total income of an assessee includes any income referred to in section(s) 68/69j69A/69B/69Cj69D of the Act, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provisions of the Act in computing the income referred to in section 115BBE(1) of the Act.

In this regard, it has been brought to the notice of the Central Board of Direct Taxes (the Board) that in assessments prior to assessment year 2017-18, while some of the Assessing Officers have allowed set off of losses against the additions made by them under Section(s) 68/69j69A/69B/69C/69D, in some cases, set off of losses against the additions made under Section 115BBE(1) of the Act have not been allowed.

As the amendment inserting the words 'or set off of any loss' is applicable with effect from pt of April, 2017 and applies from assessment year 2017-18 onwards, conflicting views have been taken by the Assessing Officers in assessments for years prior to assessment year 2017-18.

The matter has been referred to the Board so that a consistent approach is adopted by the Assessing Officers while applying provision of section 115BBE in assessments for period prior to the assessment year 2017-18.

Finally, the board has come to the conclusion that since the term 'or set off of any loss' was specifically inserted only vide the Finance Act 2016, w.e.f. 01.04.2017, an assessee is entitled to claim set-off of loss against income determined under section 115BBE of the Act till the assessment year 2016-17.