

Finance Bill, 2009
(As on 6th July, 2009)

RELEVANT EXTRACTS

Charging Section & Quantification of tax

In section 17 (2) of Income-tax Act, the following sub-clauses are being substituted for clause (vi) with effect from the 1st day of April, 2010 -

‘(vi) the value of any specified security or sweat equity shares allotted or transferred directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

Explanation - For the purpose of this clause, -

- a) “specified security” means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and where employees’ stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme;
- b) “sweat equity shares” means equity shares issued by a company to its employees or its directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.
- c) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case maybe, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from the assessee in respect of such security or shares;
- d) “fair market value” means the value determined in accordance with the method as may be prescribed;
- e) “option” means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price.

Capital Gains

In section 49 of the Income-tax, for sub-section (2AA), the following sub-section shall be inserted with effect from the 1st day of April, 2010, namely:-

“(2AA) Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.”