

Provisions applicable to
Company —
Amalgamation/Demerger

Demerger [Sec. 2(19AA)]

“Demerger” in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956 (corresponding section 230 to 232 of Companies Act, 2013).

Demerged Company [Section 2(19AAA)] : It means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company.

Resulting Company : means one or more companies (including wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and the resulting company in consideration of such transfer of undertaking, issues shares to shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger.

Carry forward of accumulated loss and/or unabsorbed depreciation

Accumulated loss and unabsorbed depreciation of an amalgamating company owning an industrial undertaking or a ship or a hotel or a banking company can be transferred to the amalgamated company provided:

1. It continuously holds $\frac{3}{4}$ th value of the assets acquired in a scheme of amalgamation for at least five years from the date of amalgamation.
2. It continues to carry on business of amalgamating company for at least five years from the date of amalgamation and the amalgamating company.

Accumulated loss and unabsorbed depreciation of a demerged company will be transferred to resulting company:

1. Where it is directly relatable to undertaking transferred, it should be such relatable amount.
2. Where it is not directly relatable to the undertaking transferred, it should be apportioned in the ratio of assets retained by the demerged company and transferred to resulting company.

Allowability of expenditure relating to amalgamation/demerger

An Indian company will be allowed a deduction of 1/5th of the expenditure incurred for the purposes of amalgamation or demerger after 1st April, 1999 for five years from the years of amalgamation/demerger. (Sec. 35DD)