

CHAPTER 13

Set Off & Carry Forward Of Losses Introduction

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- ✚ Total Income earned by the Assessee during the PY is taxable under Income Tax Act.
- ✚ It is worthy to be noted that Total Income from All Sources/Heads is to be taxed & not the Income from Individual source/head. Thus, it becomes Important to know Mechanism of Set off & Carry forward of Losses.
- ✚ Ex: Mr. JK carries on two businesses. He gets loss in one business & profit in another one. His PGBP income will be the net income i.e. after an adjustment of the loss.
- ✚ It might also happen that Net Result from a Particular Source/Head of Income may be Loss. This Loss can be Set off against other Source/Head in a Specified Manner.
- ✚ Thus, it can be said that Loss from one Source/Head can be Adjusted against Income from other Source/Head Subject to Certain Conditions.
- ✚ Set-off & C/F of losses is mandatory.

Meaning of Set-off & Carry Forward of Losses

Set off of Loss

Adjustment of Losses against Profits from Another Source/Head of Income in Same AY.

Carry Forward of Losses

If Losses cannot be Set-off in Same Year due to Inadequacy of Eligible Profits, then such Losses are carried forward to Next AY for Adjustment against Eligible Profits of that year.

This Topic Can be Divided into 2 Parts:

- A. Set off of Loss in Same Year
 1. Intra-Head/Inter-Source Adjustments [Set off within Same Head of Income]
 2. Inter Head Adjustments [Set off against other Head of Income]
- B. Carry Forward & Set off of Loss in Next Year.

A. Set Off of Losses

1. Intra Head/Inter Source Adjustment [Sec 70]

GENERAL RULE: Loss from Any Source of Income can be set off (adjusted) against Income from any other source under the SAME HEAD.

Examples:

1. Loss from one house property can be set off against the Income from another house property as both these sources of income fall under one head of income.
2. If the assessee has two house & income from one house is Rs. 30,000 while loss from other house is Rs. 10,000, then such loss shall be adjusted against other income from same source & after set off, income u/h HP = Rs. 20000.
3. Loss from one business (textiles) can be set off against income from any other business (printing) in same year as both these sources of income fall under one head of income.

EXCEPTIONS to Intra Head/Inter Source adjustment: In following cases, Loss from one source cannot be adjusted against Income from another source although both falls under Same head:

Nature of Loss	Details
Speculation Business Loss [Sec 73(1)]	✚ Speculation Business Loss can be set off against Income of ANY other Speculation Business only.
Loss of Specified Business u/s 35AD [Sec 73A]	✚ Loss of Specified Business can be set off against Income of ANY Specified Business u/s 35AD only. Note: Normal business losses can be set off against specified business income.
Loss from Activity of Owning & Maintaining Race Horses [Sec 74A]	✚ Such Loss can be set-off only against Income from Activity of Owning & Maintaining Race Horses only.
Long Term Capital Loss [Sec 70(3)]	✚ LTCL can be set off against LTCG only & NOT even against STCG. ✚ However, STCL can be set off against both STCG & LTCG.
Loss from Lottery, Puzzles, Card Games	✚ NO SET OFF against any Income. It is Taxable @ 30%. ✚ Expenditure Incurred for Buying Lottery Ticket → Not Deductible.

Exempt Source	✚	Loss from Exempt Source cannot be set-off against Profits from Taxable Source of Income.
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2. Inter Head Adjustment [Section 71]

GENERAL RULE: Loss from one Head can be set off against Income from Another Head.

Ex: Mr. X has loss from Business/Profession of Rs. 3,00,000 & Income from House Property of Rs.5,00,000. In such case, Loss from business (One head) can be set off against Income from House Property (Another Head).

EXCEPTIONS to Inter head adjustment:

1. Capital Loss
 - Loss u/h Capital Gains can be set off against Income u/h Capital Gains only.
 - Loss u/h 'Capital Gains' **CANNOT** be set-off against Income under Any other Head.
2. Loss u/h PGBP [Sec 71(2A)]
 - Loss u/h PGBP **CAN** be set off against Income from Any Head of Income Except Income from Salary.
3. Loss u/h 'House Property'
 - Loss u/h 'House Property' can be set off against any Head upto Rs. 2 Lacs only.
 - **Note:** Maximum Loss from House Property which can be set-off = Rs. 2 lacs.
4. Since Intra-Head Adjustment is NOT Permitted in the following cases & thus Inter-Head Adjustment is ALSO NOT Permitted
 - (a) Loss from Speculation Business;
 - (b) Loss from Specified Business u/s 35AD;
 - (c) Loss from Activity of owning & Maintaining Race Horses;
 - (d) Loss of Lottery, Crossword Puzzles, Card Games;
 - (e) Loss from Exempt Source of Income.

Points to Remember

1. Loss from any Head (other than Capital Gain & PGBP) can be adjusted against Income from ANY Head of Income, including Capital Gain & Salary in Same AY.
2. Assessee may choose to set off the losses in the manner which is Most Beneficial to him.
3. It is Mandatory to Set off Loss if Eligible Income is there. Assessee cannot ignore it.

B. Carry Forward of Losses

- ✚ If Loss cannot be set off either under Same Head or under other Heads of Income due to Absence of Eligible Income in Same AY, It shall be carried forward to the next year & Set off against Income from Same Head in next AYs subject to prescribed Time Limit.

Points to Remember:

1. Once a Loss is carried forward, it can be set off only against Income from Same Head.
2. Loss from Lottery cannot be set off nor Carried Forward.

Treatment of Various Losses in Detail

Loss u/h	Combined Provisions of Set off & Carry Forward
House Property [Section 71B]	<ul style="list-style-type: none"> ✚ Firstly, Loss from one House Property shall be adjusted against Income from Another House Property. ✚ If still there is Unabsorbed Loss, it shall be set-off against income from any other head upto Rs. 2,00,000 only. ✚ Remaining (Unabsorbed) Loss will be carried forward to Next Year. ✚ Such b/f Loss can be set-off against Income u/h 'House Property' only in next PY.
Normal Business Loss [Section 72]	<ul style="list-style-type: none"> ✚ Firstly, Normal business loss can be set off against income u/h 'PGBP'. ✚ If still there is unabsorbed Loss, it can be set off against Income under any other head Except "salaries & Casual Income". <p>□ If still there is a loss, it can be carried forward to Next Year.</p>

	<ul style="list-style-type: none"> ✦ Such b/f Loss can be set-off against 'income u/h PGBP' only in Next PY. <p>Points to Remember:</p> <ul style="list-style-type: none"> ✦ Unabsorbed Depreciation can be set off against ANY HEAD OF INCOME except salary & casual income. ✦ Unabsorbed Depreciation can be C/F (indefinite) and allowed to be set off against ANY HEAD OF INCOME except salary & casual income. ✦ It is not necessary that Business whose Loss is being set off must be continued. ✦ Business Losses can be set off only by the assessee who has incurred loss: Only the person who has incurred the loss is entitled to c/f or set off the loss. Thus, successor of a business cannot c/f or set off losses of his predecessor.
<p>Specified Business u/s 35AD Loss [Section 73A]</p>	<ul style="list-style-type: none"> ✦ Specified business loss u/s 35AD can be set off only against income of any other specified business. ✦ Unabsorbed loss will be c/f to next AY & set off against income from any Specified Business. <p>Note: Loss from a specified business can be set-off against Profit of another specified business u/s 73A even if other specified business is not eligible for deduction u/s 35AD.</p> <p>Ex: Assessee can set-off Losses of Hospital/Hotel Business which is eligible for deduction u/s 35AD against Profits of Existing Business of Hotel (Above 2 star) even if Hotel business is not eligible for deduction u/s 35AD.</p>
<p>Speculation Business Loss [Section 73]</p>	<ul style="list-style-type: none"> ✦ Speculation Business Losses can be set off only against any other Speculation Business Income. ✦ If there is no other Speculation Income, it can be c/f to subsequent years & set-off only against income from any speculation business carried on by the assessee.

	<p>Note: It is not necessary that same speculation business must continue in AY in which Loss is to be set off.</p> <p>Note: Loss from activity of trading in derivatives is not treated as speculative loss.</p>
Capital Loss	<ul style="list-style-type: none"> ✚ STCL can be set off against both STCG & LTCG. ✚ LTCL can be set-off only against LTCG & not against STCG. ✚ Carry Forward: <ul style="list-style-type: none"> (a) STCL: It can be set off against ANY Capital Gains. (b) LTCL: It can be set off ONLY against LTCG. ✚ Capital Loss cannot be set off against Income under any other Head.
Owning & Maintaining Race Horses [Sec 74A]	<ul style="list-style-type: none"> ✚ Losses from Activity of owning & Maintaining Race Horses can be set off only against Income from Activity of owning & Maintaining race horses only. ✚ Loss = Stake money - Revenue Expenditure for Maintaining Race Horses.
Casual loss (IFOS)	Casual loss is not allowed to be set-off at all. It's a dead loss with no tax treatment.
Other Losses (Interest, Dividend ETC)	<ul style="list-style-type: none"> ✚ Intra head allowed with any income under same head income except Casual Income. ✚ Inter Head allowed with any income under any head. ✚ Not allowed to carried forward.

Set-Off of Brought Forward Losses & Maximum Time Limit

Nature of Loss to be c/f	Income against which Brought Forward Loss can be set-off	Maximum Period for Carry Forward of Losses
House Property Loss	Any Income u/h House Property	8 AYs
Normal Business Loss	Any Income u/h PBGP.	8 AYs
Speculation Business Loss	Any Speculation Business Income	4 AYs
Specified Business Loss	Any Specified Business Profit	Indefinite Period
Long Term Capital Loss	Long Term Capital Gains	8 AYs
Short Term Capital Loss	STCG/LTCG	8 AYs
Loss from Activity of owning & Maintaining Race Horses	Income from Activity of owning & Maintaining Race Horses.	4 AYs
Unabsorbed Depreciation	Any Income except Salary & Casual Income.	Indefinite Period

Order of Set-Off of Losses [Sec 72(2)] [Imp]

1. Current year Depreciation/Current year Capital Expenditure on Scientific Research.
2. Brought Forward Business Loss [Section 72(1)]
3. Unabsorbed Depreciation of Earlier Years [Section 32(2)].
4. Unabsorbed Capital Expenditure on Scientific Research of Earlier Years [Section 35(4)]
5. Unabsorbed Expenditure on Family Planning of Earlier Years [Section 36(1)(ix)].

Compulsory Filing of ROI Before Due Date U/s 139(1) [Sec 80]

- ✚ Return of Loss u/s 139(3) shall be filed within Time Limit of Sec 139(1) to Carry Forward Losses.
- ✚ However, Loss u/h "House Property" & Unabsorbed Depreciation can be carried forward even if Return of Loss is not filed within DD u/s 139(1).

Business Loss Can be Carried Forward for More than 8 AY [Sec 41(5)]

- ✚ If Business/Profession is No Longer in Existence & there is Deemed Income Taxable u/s 41(1),41(3),41(4)/(4A) in respect of that Business/Profession, then
- ✚ Any Loss (Except Speculation Loss) of such Discontinued Business in the year of Discontinuance
- ✚ which could not be set off in the year of Discontinuance can be set off against Deemed Income u/s 41(1),41(3),41(4)/(4A).

Brought Forward Losses Must be Set off in Immediately Succeeding Years When Eligible Income is Available

- ✚ Losses which are carried forward must be set off against Eligible Income of Immediately succeeding year & if there is any balance still to be set off, it should be set off in Immediately Next succeeding years within the time allowed.
- ✚ If Losses are not set off against Income of Immediately Next year, it cannot be set off in Later year.