

Chapter Name :- Set-off and Carry-forward & Set-off of losses

Sections to be covered in this Chapter :-



- Section 70 :- Inter-Source Adjustment
- Section 71 :- Inter-Head Adjustment
- Section 71B :- Carry-forward & set-off of house property loss
- Section 72 :- Carry-forward & set-off of Business loss (other than speculative & specified business loss)
- Section 73 :- Carry-forward & set-off of speculative business loss
- Section 73A :- Carry-forward & set-off of specified business loss
- Section 74 :- Carry-forward & set-off of capital losses
- Section 74A :- Carry-forward & set-off of loss from an activity of owning & maintaining race horses
- Section 32(2) :- Unabsorbed Depreciation & its adjustment
- Section 80 r.w. Section 139(3) :- Compulsory filing of ROI on or before the due date for the purpose of carry-forward of certain losses

Set-off and Carry-Forward & Set-off of losses :-

* During the PY; the assessee earns income from various sources



* Such incomes are then classified & charged to tax under five heads of income



* Deductions are then allowed to be claimed out of such incomes under those heads of income



* After claiming deductions out of such incomes; the net result (i.e. balance income)

can be **positive (+ve)**



shall be chargeable to tax i.e. taxed as a part of total income.

can be **negative (-ve)**



shall be allowed to be adjusted out of the other positive balances i.e. set-off is allowed but in the absence of such +ve balances; these -ve balances are carried-forward to subsequent years for their set-off in later PYs.

* Hence, from the above discussion, it is clear that :-

If deductions allowable under any head are \leq incomes taxable under that head; then, the remaining +ve income is made liable for income tax.

However, if such deductions are $>$ such incomes; then, the remaining -ve income gets eligible for set-off and carry-forward.

* For the purpose of understanding the provisions contained in this chapter; it is divided into two parts, namely :-

Set-off of Losses



this means adjustment of losses against profits from another source or head of income during the same PY



Provisions of set-off are contained in section 70 & 71.

Carry-forward & Set-off of Losses



in the absence of eligible profits, if the losses could not be adjusted during the PY; then, such losses are carried-forward to subsequent PYs for adjustment against the eligible profits of that PY



Provisions of carry-forward are contained in section 71B, 72, 73, 73A, 74 & 74A.

* Precisely, the steps involved in the process of set-off and carry-forward of losses are as follows :-

Step 1 :- Inter-Source Adjustment of losses during the same PY u/s 70.

Step 2 :- Inter-Head Adjustment of losses during the same PY u/s 71.

Step 3 :- Carry-forward of losses for adjustment in subsequent PYs u/s 71B, 72, 73, 73A, 74 & 74A.

- * The above steps must be followed exactly in the same sequence as shown above and cannot be interchanged.
- * If the loss cannot be adjusted as per section 70; then only the provisions of section 71 are invoked for set-off of loss.
- * Further, if the loss cannot be adjusted as per the provisions of section 70 & 71, only then the carry-forward provisions are to be invoked.

Section 70:- Inter-Source Adjustment of Losses :-

* General Rule :- Loss from a source of income can be adjusted against profits of any other source of income under the same head, during the same PY.

* However, the above general rule has certain exceptions, which are as follows :-

① Loss from a speculative business can be adjusted only against profits from any speculative business.

② Loss from a specified business can be adjusted only against profits from any specified business.

Note 1:-

Loss from a speculative business can be set against profits of :-

* Speculation business ✓

* Specified business ✗

* Any other business ✗

Loss from a specified business can be set against profits of :-

* Speculation business ✗

* Specified business ✓

* Any other business ✗

Loss from any other business can be set against profits of :-

* Speculation business ✓

* Specified business ✓

* Any other business ✓

Note 2:- Losses from a business other than a speculation or a specified business can be set-off against any business income including presumptive business income.

Note 3:- loss from a specified business can be adjusted against profits of any :-

Specified business which is eligible for deduction u/s 35AD ✓

Specified business which is not eligible for deduction u/s 35AD ✓

③ Long-term capital loss (LTCL) can be adjusted only against Long-term Capital Gain (LTCG). However, Short-term Capital loss (STCL) can be adjusted against short-term capital gain (STCG) as well as long-term capital gains (LTCG).

Note 1:-

LTCL can be adjusted against :-

LTCG ✓

STCG ✗

STCL can be adjusted against :-

STCG ✓

LTCG ✓

Note 2:- listed equity shares or units of FOMF/business trust → transferred on or after 01.04.2018 on any recognised stock exchange & STT is charged at the time of transfer of such assets and also at the time of acquisition of listed equity shares → LTCL → can be adjusted fully against any LTCG.

④ loss from an activity of owning & maintaining race horses can be adjusted only against the profits from any such activity.

Note :-

loss from an activity of owning & maintaining race horses can be adjusted against :-

Profits from any activity of owning & maintaining race horses ✓

any other income under the head "IFOS" ✗

loss from any other source of income under the head "IFOS" can be adjusted against :-

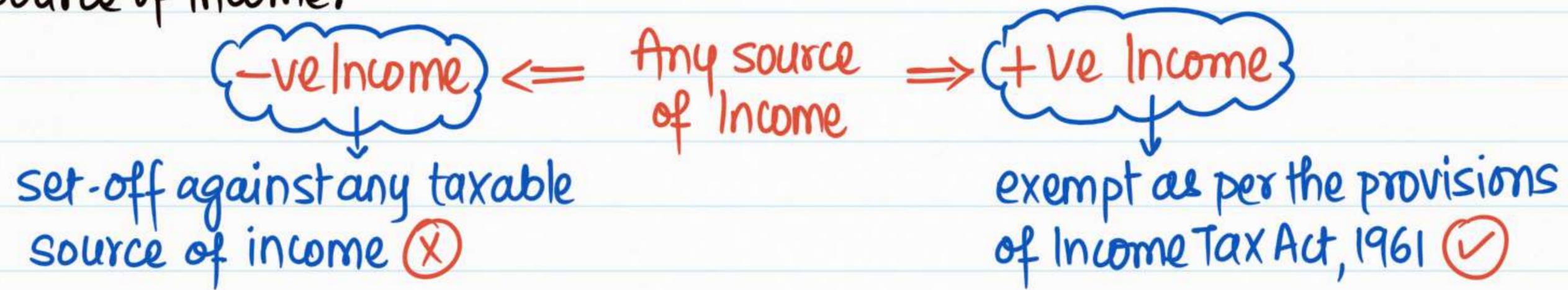
Profits from an activity of owning & maintaining race horses ✓

any other income under the head "IFOS" (except winnings income) ✓

⑤ No loss can be adjusted against winnings income.

Note :- losses from lotteries, card-games, horse races or any such casual activity are not eligible for any set-off (not even against the winnings income from such type of activities) Such losses are therefore liable to be ignored i.e. not to be considered for any set-off or carry-forward.

⑥ Loss from an exempt source of income are not eligible for any set-off or carry-forward. Hence, such losses are liable to be ignored & not to be adjusted against any taxable source of income.



Section 71:- Inter-Head Adjustment of Losses :-

* General Rule:- Loss from any head of income can be adjusted against income under any head, during the same PY.

* However, the above general rule has certain exceptions, which are as follows:-

① Loss under the head "House Property" can be adjusted against any head of income but subject to maximum ₹ 2,00,000.

② loss from any business other than a speculative business or a specified business can be adjusted against any head **except** "salaries" head.

③ loss from
 { any speculative business }
 { any specified business } ⇒ can not be set-off against an income under any other head.
 i.e. Inter-Head Adjustment u/s 71 (X)

④ Capital loss
 { long-term (LTCL) }
 { short-term (STCL) } ⇒ can not be set-off against an income under any other head.
 i.e. Inter-Head Adjustment u/s 71 (X)

⑤ loss from an activity of owning & maintaining race horses can not be adjusted against an income under any other head i.e. Inter-Head Adjustment u/s 71 (X)

⑥ No loss can be adjusted against winnings income.
 i.e. Inter-Head Adjustment of loss of any head u/s 71 can not be made against such incomes.

Section 71B :- Carry-forward & set-off of house property loss :-

If the loss under the head "House Property" could not be adjusted during the same PY even after applying the provisions of inter-source & inter-head adjustment u/s 70 & 71;



then, such loss shall be carried-forward to subsequent PYs for a maximum period of 8 years, to be adjusted against income from house property

Note 1 :- Loss under the head "House Property" can be carried-forward to subsequent PYs even if the ROI of the PY to which the loss relates is not filed on or before the due date.

Note 2 :- There is no requirement that the house property to which the brought-forward loss relates, should be owned by the assessee during the PY in which such brought-forward loss is sought to be adjusted.

Section 72:- Carry-forward & set-off of business loss (other than speculative and specified business losses)

If the loss from any business (other than speculative and specified business losses) could not be adjusted during the PY even after applying the provisions of inter-source & inter-head adjustment u/s 70 & 71.



then, such loss shall be carried-forward to subsequent PYs for a maximum period of 8 years, to be adjusted against any business income.

↳ Speculative business income ✓

↳ Specified business income ✓

↳ any other business income (whether or not taxable u/in "PGBP") ✓

↳ any presumptive business income ✓

↳ any business income of spouse/minor child clubbed as per sec. 64 ✓

Note 1:- Business loss of any PY can be carried-forward to subsequent PYs only if the ROI of the PY to which such loss relates is filed on or before the due date.

Note 2:- There is no requirement that the business to which the brought-forward loss relates shall be continued during the PY in which such brought-forward loss is sought to be adjusted.

Note 3:- losses of illegal business shall be taken into account & adjusted for computing real profits of such illegal business.

However, such loss from illegal business cannot be set-off against profits of any legal business.

Further, such loss is also not eligible for carry-forward & set-off in subsequent years.

Note 4:- loss can be carried-forward by the assessee who incurred such loss. However, exceptions to this rule are :-

(a) Accumulated business loss of amalgamating co. can be carried-forward & set-off by amalgamated Co.

(b) Proportionate business loss of demerged co. can be carried-forward & set-off by resulting co.

(c) Accumulated business losses of a proprietary concern or a partnership firm when its business is taken-over by a company can be carried-forward & set-off by such company.

(d) Accumulated business losses of an unlisted public co. or private ltd. co. on its conversion into LLP can be carried-forward & set-off by such LLP.

(e) loss of a business acquired by way of inheritance can be carried-forward & set-off by the successor.

Note 3:- As per the provisions of section 72, brought-forward business losses are to be set-off before setting-off the brought-forward unabsorbed depreciation. Therefore, the order in which set-off shall be effected out of the business income shall be as follows:-

- 1.) current year depreciation, capital expenditure on scientific research, capital expenditure on family planning for the employees;
- 2.) Brought-forward business losses;
- 3.) Brought-forward unabsorbed depreciation;
- 4.) Brought-forward unabsorbed capital expenditure on scientific research;
- 5.) Brought-forward unabsorbed capital expenditure on family planning for employees

Section 73:- Carry-forward & set-off of loss from speculative business :-

If the loss from any speculative business could not be adjusted during the PY even after applying the provisions of inter-source & inter-head adjustment u/s 70 & 71 ;



then, such loss shall be carried-forward to subsequent PYs for a period of maximum 4 years, to be adjusted against the profits of any speculative business.

Note 1:- Loss from any speculative business can be carried-forward to subsequent PYs only if the ROI of the PY to which such loss relates is filed on or before the due date.

Note 2:- There is no requirement that the business to which the brought-forward loss relates shall be continued during the PY in which such brought-forward loss is sought to be adjusted.

Section 73A:- Carry-forward & set-off of loss from Specified business:-

If the loss from any specified business could not be adjusted during the PY even after applying the provisions of inter-source & inter-head adjustment u/s 70 & 71;



Then, such loss shall be carried-forward to subsequent PYs for indefinite period, to be adjusted against profits of any specified business.

Note 1:- Loss from any specified business can be carried-forward to subsequent PYs only if the ROI of the PY to which such loss relates is filed on or before the due date.

Note 2:- There is no requirement that the business to which the brought-forward loss relates shall be continued during the PY in which such brought-forward loss is sought to be adjusted.

Section 74:- Carry-forward & set-off of Capital losses (i.e. STCL as well as LTCL) :-

If the capital losses i.e. STCL as well as LTCL could not be adjusted during the PY even after applying the provisions of inter-source & inter-head adjustment u/s 70 & 71 ;



Then, such loss shall be carried-forward to subsequent PYs for a period of maximum 8 years, to be adjusted against capital gains. (LTCL only against LTCG & STCL against STCG as well as LTCG).

Note:- Capital losses i.e. STCL as well as LTCL can be carried-forward to subsequent PYs only if the ROI of the PY to which such loss relates is filed on or before the due date.

Section 74 A :- Carry-forward & set-off of loss from an activity of owning & maintaining race horses :-

If the loss from an activity of owning & maintaining race horses could not be adjusted during the PY even after applying the provisions of inter-source & inter-head adjustment u/s 70 & 71.



then, such loss shall be carried-forward to subsequent PYs for a period of maximum 4 years, to be adjusted against the profits of such activity.

Note 1 :- loss from an activity of owning & maintaining race horses can be carried-forward to subsequent PYs only if the ROI of the PY to which such loss relates is filed on or before the due date.

Note 2 :- The activity to which the brought-forward loss relates shall also be continued during the PY in which such brought-forward loss is sought to be adjusted.

Section 32(2) :- Unabsorbed Depreciation & its adjustment :-

If during the PY, due to non-availability or insufficiency of business profits, the depreciation for that year could not be absorbed in full



then, such depreciation which remains unabsorbed is known as Unabsorbed Depreciation (UAD) and the same can be adjusted against any income during that PY except income from "salaries".

However, if such UAD could not be adjusted during the PY; then, it would be carried-forward to subsequent PYs for indefinite period, to be adjusted against any income except income from "salaries".

Note :- UAD can be carried-forward to subsequent PYs even if the ROI of the PY to which such UAD relates is not filed on or before the due date.

Other Important Points :-

1.) loss from any source of income under the head "IFOS" (except loss from an activity of owning & maintaining race horses);



are eligible for inter-source adjustment u/s 70 within the same head & can be adjusted against :-

Winnings
Income (X)

Any other income including profits from an
activity of owning & maintaining race horses (✓)

* Further, if such losses could not be adjusted within the "IFOS" head; then such losses would be eligible for inter-head adjustment u/s 71 & can be adjusted against income from any head without any restriction.

* If the above losses still could not be adjusted even after applying the provisions of inter-source & inter-head adjustment u/s 70 & 71 as discussed above; then, such losses shall lapse and shall not be allowed to be carried-forward to subsequent years for set-off in later years.

2.) As per the provisions of Section 80 read with Section 139 (3); following losses can not be carried-forward to subsequent PYs; if the ROI of the PY to which such losses relates to is not furnished on or before the due date:-

- 1.) Business loss (other than speculative or specified business loss);
- 2.) Speculative business loss;
- 3.) Specified business loss;
- 4.) Capital loss (STCL or LTCL);
- 5.) loss from an activity of owning & maintaining race horses.

* However, following losses can be carried-forward to subsequent PYs even if the ROI of the PY to which such losses relates to is not filed on or before the due date:-

- 1.) House Property loss
- 2.) Unabsorbed Depreciation (UAD).

* The above restriction is applicable only in case of carry-forward of the losses for the first time & not for the set-off of losses or carry-forward of brought-forward losses.

— END OF NOTES —