

CHAPTER-V
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1) The provisions relating to, 'set off & carry forward & set off of losses' have been incorporated in the Act, with a view to enable the assessee to adjust the losses against respective heads & to get benefit of tax reduction. It has been stated by Justice Kania in *Rekamdar - 14 ITR 10* that,

"Under the Act Income & not several Incomes ~~is~~ taxed" therefore, this benefit of set off is ^ultimately to be obtained under different heads & finally the tax burden of the assessee is reduced.

2) The set off of losses is considered under various heads, there have been various amendments in the Act, so far as this provision is concerned. The losses in speculation business (Sec.73), losses under the head, "Capital

gains" (Sec.74), losses from certain specified sources under "Income from other sources"(Sec.74A), losses of registered firms (Sec.75), losses of unregistered firms assessed as registered firms, (Sec.76) and losses of unregistered firms or their partners(Sec.77), have been considered under the Act, in an exhaustive manner. There is special provision for submission of return under sec.80 of the Income Tax Act.

From the examination of these provisions the following suggestions emerge.

1) The provisions relating to set off & carry forward take into account the deduction of such losses under certain water type compartments. The deduction for this would be available provided all the requirements of the concern sections are complied with. It is suggested that a general ~~brou~~line for treatments of all such head of income should be drawn under one section only, instead of under different sections.

ii) It is further suggested that, the provisions under the set off one confined up to period of eight years only. This period of carry forward is fixed longback from a date prior to the coming into force of Income Tax Act, 1961. In the fast changing world the limitation as regard the time should be re-adjusted, so as to enable the assessee to take the benefit of losses without any favour of the Income Tax Department.

iii) The provisions do not contained any positive method for computation of losses, it is suggested that the Income Tax Rules, should contain the method of computing the losses.

iv) The provisions relating to losses of unregistered firms are rather complicated. There should be further simplification as regard these provisions.

(Reference please see page No. 616 of Kanga & Palkhiwala, the Law & Practive of Income Tax, VIIth edition.)

CONCLUSIONS -

From the aforesaid study of the subject, it is seen that the provisions relating to, "Set off & carry forward & set off", have been framed with a view to enable the assessee to ultimately reduce his tax burden.

Though the provisions are amended under various amending Acts, they are simple in nature & easy to understand. The assessee as a result of these provisions is able to take the benefit of losses & reduce his tax burden legitimately.

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