CONCEPT OF CARRY BACK OF LOSSES
EXPECTATION BUDGET 2012-13

Carry back of business losses:

- The present Income-tax Act provides for carry forward of losses i.e. depreciation and business losses. However, there is no provision in relation to carry back of losses. Many developed countries viz. Canada, France, Germany, Korea, Netherlands, Singapore, U.K. and U.S.A. have provision for carry back of losses.

  The provision of carry back of losses is a kind of incentive given to industries.

- After opening of the economy in India, entrepreneurs have started taking huge projects where the cost of project is more than Rs.5,000 crores and the time of completion of project is 3 years and more. The requirement of Funds is tied up and they are used gradually. Many times, it happens that in first or second year, surplus funds are kept in Bank Deposits or invested in approved securities which gives good Return but in the second or third year when project is near to completion there is no income and once the project commences production there are losses due to high income-tax depreciation at least for 3 to 4 years.

  When initially surplus Funds are invested, it gives income and following the decision of Supreme Court in the cases of

  1. Tuticorin Alkali Chemicals & Fertilizers Ltd 227 ITR 172,
  2. Bokaro Steel Ltd 236 ITR 315 (Reverse) and finally
  3. Lok Holdings 308 ITR 356 Bom
  4. Whistling Woods International Ltd. 2011 TIOL 683 ITAT MUM

  the income becomes chargeable to tax and on that surplus income, taxes are paid.

- We would request for a suitable provision of carry back of losses in the Income-tax on the same lines as that of the western world / developed countries. It will be a kind of incentive to industries.

  Interestingly, with the provision of carry back of losses, the revenue will not lose because even if tax is paid, the same is capitalized to the cost of project and further deprecation is claimed on the same.
