

SET OFF AND CARRY FORWARD OF LOSSES

AMENDMENT BY THE FINANCE (No.2) ACT, 2014

Transaction in respect of trading in shares on a recognised stock exchange by a company, the principal business of which is the business of trading in shares, not a speculative transaction [Section 73]

Effective from: A.Y.2015-16

- (i) Under section 73, losses incurred in respect of a speculation business cannot be set off or carried forward and set off except against the profits of any other speculation business.
- (ii) *Explanation* to section 73 provides that in case of a company deriving its income mainly under the head “Profits and gains of business or profession” (other than a company whose principal business is business of banking or granting of loans and advances), and where any part of its business consists of purchase or sale of shares, such business shall be deemed to be speculation business for the purpose of this section.
- (iii) Section 43(5) defines “speculative transaction” as a transaction in which a contract for purchase or sale of any commodity, including stocks and shares, is settled otherwise than by way of actual delivery. A transaction in respect of trading in derivatives on a recognised stock exchange is, however, excluded from the above definition.
- (iv) Accordingly, the exclusion part under *Explanation* to section 73 [i.e., the bracketed part] has been expanded to provide that the business of purchase or sale of shares by a company whose principal business is the business of trading in shares, shall also **not** be a speculative business.
- (v) Therefore, *Explanation* to section 73 now provides that in case of a company deriving its income mainly under the head “Profits and gains of business or profession” (other than a company whose principal business is **business of trading in shares** or banking or granting of loans and advances), any part of its business consisting of purchase or sale of shares shall be deemed to be speculation business for the purpose of this section.