

Set Off and Carry Forward of Losses

Question 1

Mr. Batra furnishes the following details for year ended 31.03.2013:

Particulars	₹
Short term capital gain	1,40,000
Loss from speculative business	60,000
Long term capital gain on sale of land	30,000
Long term capital loss on sale of shares (securities transaction tax not paid)	1,00,000
Income from business of textile (after allowing current year depreciation)	50,000
Income from activity of owning and maintaining race horses	15,000
Income from salary	1,00,000
Loss from house property	40,000

Following are the brought forward losses:

- (i) Losses from activity of owning and maintaining race horses-pertaining to A.Y. 2010-11 ₹25,000.
- (ii) Brought forward loss from business of textile ₹60,000 - Loss pertains to A.Y. 2005-06.

Compute gross total income of Mr. Batra for the Assessment Year 2013-14. Also state the eligible carry forward losses for the Assessment Year 2013-14.

Answer

Computation of Gross Total Income of Mr. Batra for the A.Y. 2013-14

Particulars	₹	₹
Salaries	1,00,000	
Less: Current year loss from house property	<u>(40,000)</u>	60,000
Profit and gains of business or profession		
Income from textile business	50,000	
Less: Loss from textile business brought forward from A.Y. 2005-06	<u>60,000</u>	
Balance business loss of A.Y. 2005-06 [See Note-1]	<u>(10,000)</u>	NIL

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Income from the activity of owning and maintaining race horses	15,000	
Less: Loss from activity of owning and maintaining race horses brought forward from A.Y. 2010-11	<u>25,000</u>	
Loss to be carried forward to A.Y. 2014-15 [See Note-2]	<u>(10,000)</u>	NIL
Capital Gain		
Short term capital gain		1,40,000
Long term capital gain on sale of land	30,000	
Less: Long term capital loss on sale of shares	<u>1,00,000</u>	
Loss to be carried forward to A.Y. 2014-15 [See Note-3]	<u>(70,000)</u>	NIL
Gross Total Income		<u>2,00,000</u>

Losses to be carried forward to A.Y. 2014-15

Particulars	₹
Current year loss from speculative business [See Note-4]	60,000
Current year long term capital loss on sale of shares	70,000
Loss from activity of owning and maintaining of race horse pertaining to A.Y. 2010-11	10,000

Notes:-

- (1) As per section 72(3), business loss can be carried forward for a maximum of eight assessment years immediately succeeding the assessment year for which the loss was first computed. Since the eight year period for carry forward of business loss of A.Y. 2005-06 expired with the A.Y. 2013-14, the balance unabsorbed business loss of ₹ 10,000 cannot be carried forward to A.Y. 2014-15.
- (2) As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- (3) Long term capital gains on sale of shares on which securities transaction tax is not paid is not exempt under section 10(38). Therefore, long-term capital loss on sale of such shares can be set-off against long-term capital gain on sale of land. The balance loss of ₹ 70,000 cannot be set-off against short term capital gain or against any other head of income. The same has to be carried forward for set-off against long-term capital gain of the subsequent assessment year. Such long-term capital loss can be carried forward for a maximum of eight assessment years.
- (4) Loss from speculation business cannot be set-off against any income other than profit and gains of another speculation business. Such loss can, however, be carried forward for a maximum of four years as per section 73(4) to be set-off against income from speculation business.

Question 2

Sanjay engaged in various types of activities gives the following information for the year ended 31.03.2013.

	(₹)
Loss from automobile business (Total turnover ₹6,00,000)	1,10,000
Profit from wholesale trade in furniture items at the prescribed percentage of turnover as per section 44AD	4,00,000
Brought forward loss relating to discontinued textile business (discontinued w.e.f. 01.06.2008)	2,00,000
Short term capital loss on sale of vacant site during the year	70,000
Profit from speculation business related to oil seeds.	1,10,000
Loss from speculation business brought forward and related to cotton (brought forward from assessment year 2012-13)	50,000
Brought forward unabsorbed depreciation of trade in furniture items related to assessment year 2012-13	60,000

Note: Aggregate total business turnover of Sanjay to be assumed as below the limit prescribed under section 44AB.

Compute the total income of Sanjay for the assessment year 2013-14.

Answer**Computation of total income of Sanjay for the A.Y. 2013-14**

Particulars	₹	₹
Profit from wholesale trade in furniture items (as per section 44AD)	4,00,000	
Less: Set-off of current year loss from automobile business (See Note 1)	<u>1,10,000</u>	
	2,90,000	
Less: Set-off of brought forward loss relating to discontinued textile business (See Note 2)	<u>2,00,000</u>	90,000
Profit from speculation business related to oil seeds	1,10,000	
Less: Set-off of loss from speculation business brought forward from A.Y.2012-13 under section 73 (See Note 3)	<u>50,000</u>	<u>60,000</u>
		1,50,000
Less: Set-off of brought forward unabsorbed depreciation relating to A.Y. 2012-13 (See Note 4)		<u>Nil</u>
Total Income		<u>1,50,000</u>

Notes –

- (1) Loss from one business can be set-off against profits from another business, even if the same has been computed on presumptive basis. Inter-source set-off of losses within the same head of income is permitted under section 70.
- (2) Brought forward business loss is allowed to be set-off against the business income of the current year as per section 72, assuming that, in this case, the eight year period from the year in which the losses of discontinued textile business were incurred has not expired. Even loss of a discontinued business can be carried forward for set-off against profits of another business. There is no restriction regarding set-off of business losses against profits computed on presumptive basis under section 44AD.
- (3) As per section 73, loss from speculation business can be set-off only against profits from any speculation business. Unabsorbed speculation business loss can be carried forward for set-off against speculation business income of subsequent years, subject to a maximum period of four assessment years from the end of the relevant assessment year in which the loss was incurred. In this case, since the four year period has not expired, the brought forward speculation business loss can be set-off against the profit from speculation business income of the current year.
- (4) If the assessee opts for presumptive taxation scheme under section 44AD in respect of any business, then deductions under section 30 to 38 (including depreciation) would be deemed to have been given full effect to and no further deduction under those sections would be allowable. Therefore, where the unabsorbed depreciation relates to the business in respect of which income has been determined on a presumptive basis under section 44AD, then such unabsorbed depreciation is deemed to have been given full effect to while determining the presumptive income. Hence, no further deduction would be available in respect of such unabsorbed depreciation.
- (5) As per section 74, short term capital loss can be set off only against income under the head "Capital Gains". Since there is no income under the head "Capital Gains" for the A.Y.2013-14, the short term capital loss of ₹ 70,000 on sale of vacant site has to be carried forward to A.Y. 2014-15.

Question 3

Fill in the blanks having regard to the provisions of the Income-tax Act, 1961:

- (i) *Business loss is(eligible/not eligible) for set off against income from salaries.*
- (ii) *The maximum period for which speculation loss can be carried forward is years.*
- (iii) *The first item in the order of priority of set off as between unabsorbed capital expenditure on scientific research, current year depreciation, and brought forward business loss is.....*

Answer

- (i) not eligible
- (ii) Four
- (iii) Current year depreciation

Question 4

Choose the correct answer with reference to the provisions of the Income-tax Act, 1961:

Mr. B incurred short-term capital loss of ₹ 10,000 on sale of shares through the National Stock Exchange. Such loss can be set-off -

- (a) Only against short-term capital gains
- (b) Against both short-term capital gains and long-term capital gains
- (c) Against any head of income
- (d) None of the above.

Answer

- (b) Against both short-term capital gains and long-term capital gains

Question 5

The following are the details relating to Mr. Srivatsan, a resident Indian, aged 57, relating to the year ended 31.3.2013 :

Particulars	₹
Income from salaries	2,20,000
Loss from house property	1,90,000
Loss from cloth business	2,40,000
Income from speculation business	30,000
Loss from specified business covered by section 35AD	20,000
Long-term capital gains from sale of urban land	2,50,000
Long-term capital loss from sale of listed shares in recognized stock exchange (STT paid)	1,10,000
Loss from card games	32,000
Income from betting	45,000
Life Insurance Premium paid	1,20,000

Compute the total income and show the items eligible for carry forward.

Answer

Computation of total income of Mr. Srivatsan for the A.Y.2013-14

Particulars	₹	₹
Salaries		
Income from salaries	2,20,000	
Less: Loss from house property	<u>1,90,000</u>	30,000
Profits and gains of business or profession		
Income from speculation business	30,000	
Less: Loss from cloth business set off	<u>30,000</u>	Nil
Capital gains		
Long-term capital gains from sale of urban land	2,50,000	
Less: Loss from cloth business set off	<u>2,10,000</u>	40,000
Income from other sources		
Income from betting		<u>45,000</u>
Gross total income		1,15,000
Less: Deduction under section 80C (life insurance premium paid)		<u>30,000</u>
Total income		<u>85,000</u>

Losses to be carried forward:

Particulars	₹
(1) Loss from cloth business (₹ 2,40,000 - ₹ 30,000 - ₹ 2,10,000)	Nil
(2) Loss from specified business covered by section 35AD	20,000

Notes:

- Long-term capital gains from sale of listed shares in a recognized stock exchange is exempt under section 10(38). Loss from an exempt source cannot be set off against profits from a taxable source. Therefore, long-term capital loss on sale of listed shares cannot be set-off against long-term capital gains from sale of urban land.
- Loss from specified business covered by section 35AD can be set-off only against profits and gains of any other specified business. Therefore, such loss cannot be set off against any other income. The unabsorbed loss has to be carried forward for set-off against profits and gains of any specified business in the following year.
- Business loss cannot be set off against salary income. However, the balance business loss of ₹ 2,10,000 (₹ 2,40,000 – ₹ 30,000 set-off against income from speculation business) can be set-off against long-term capital gains of ₹ 2,50,000 from sale of urban land. Consequently, the taxable long-term capital gains would be ₹ 40,000.

- (iv) Loss from card games can neither be set off against any other income, nor can it be carried forward.
- (v) For providing deduction under Chapter VI-A, gross total income has to be reduced by the amount of long-term capital gains and casual income. Therefore, the deduction under section 80C in respect of life insurance premium paid has to be restricted to ₹ 30,000 [i.e., Gross Total Income of ₹ 1,15,000 – ₹ 40,000 (LTCG) – ₹ 45,000 (Casual income)].
- (vi) Income from betting is chargeable at a flat rate of 30% under section 115BB and no expenditure or allowance can be allowed as deduction from such income, nor can any loss be set-off against such income.

Question 6

Mr. Soohan submits the following details of his income for the assessment year 2013-14:

Particulars	₹
Income from salary	3,00,000.00
Loss from let out house property	40,000.00
Income from sugar business	50,000.00
Loss from iron ore business b/f (discontinued in 2006-07)	1,20,000.00
Short term capital loss	60,000.00
Long term capital gain	40,000.00
Dividend	5,000.00
Income received from lottery winning (Gross)	50,000.00
Winnings in card games	6,000.00
Agricultural income	20,000.00
Long term capital gain from shares (STT paid)	10,000.00
Short term capital loss under section 111A	10,000.00
Bank interest	5,000.00

Calculate gross total income and losses to be carried forward.

Answer**Computation of gross total income of Mr. Soohan for the A.Y.2013-14**

Particulars	₹	₹
Salaries		
Income from salary	3,00,000	
Less: Loss from house property set-off against salary income as per section 71	<u>(40,000)</u>	2,60,000
Profits and gains of business or profession		
Income from sugar business	50,000	

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Less: Brought forward loss from iron-ore business set-off as per section 72(1)	<u>(50,000)</u>	Nil
Balance business loss of ₹ 70,000 of P.Y.2006-07 carried forward to A.Y.2014-15		
Capital gains		
Long term capital gain	40,000	
Less: Short term capital loss set-off	<u>(40,000)</u>	Nil
Balance short-term capital loss of ₹ 20,000 to be carried forward		
Short-term capital loss of ₹ 10,000 under section 111A to be carried forward		
Income from other sources		
Winnings from lottery	50,000	
Winnings from card games	6,000	
Bank interest	<u>5,000</u>	<u>61,000</u>
Gross Total Income		<u>3,21,000</u>
Losses to be carried forward to A.Y.2014-15		
Loss of iron-ore business	70,000	
Short term capital loss	30,000	

Notes:

- The following income are exempt under section 10 –
 - Dividend income [Exempt under section 10(34)], assuming that dividend is received from a domestic company.
 - Agricultural income [Exempt under section 10(1)].
 - Long-term capital gains on which STT is paid [Exempt under section 10(38)].
- It is presumed that loss from iron-ore business relates to P.Y.2006-07, the year in which the business was discontinued.

Question 7

Mr. Rajat submits the following information for the financial year ending 31st March, 2013. He desires that you should:

- Compute the total income and
- Ascertain the amount of losses that can be carried forward.

	Particulars	₹
(i)	He has two houses :	
(a)	House No. I – Income after all statutory deductions	72,000

	(b)	House No. II – Current year loss	(30,000)
(ii)		He has three proprietary businesses :	
	(a)	Textile Business :	
		(i) Discontinued from 31 st October, 2012 – Current year loss	40,000
		(ii) Brought forward business loss of A.Y.2009-10	95,000
	(b)	Chemical Business :	
		(i) Discontinued from 1 st March, 2011 – hence no profit/loss	Nil
		(ii) Bad debts allowed in earlier years recovered during this year	35,000
		(iii) Brought forward business loss of A.Y. 2011-12	50,000
	(c)	Leather Business : Profit for the current year	1,00,000
	(d)	Share of profit in a firm in which he is partner since 2002	16,550
(iii)	(a)	Short-term capital gain	60,000
	(b)	Long-term capital loss	35,000
(iv)		Contribution to LIC towards premium	10,000

Answer**Computation of total income of Mr. Rajat for the A.Y. 2013-14**

Particulars	₹	₹
1. Income from house property		
House No.1	72,000	
House No.2	(-) <u>30,000</u>	42,000
2. Profits and gains of business or profession		
Profit from leather business	1,00,000	
Less: Current year loss of textile business	(-) <u>40,000</u>	
	60,000	
Bad debts recovered taxable under section 41(4)	<u>35,000</u>	
	95,000	
Less: Brought forward business loss of textile business for A.Y.2009-10 set off against the business income of current year	<u>95,000</u>	Nil
3. Capital Gains		
Short-term capital gain		<u>60,000</u>
Gross Total Income		1,02,000
Less: Deduction under Chapter VI-A		
Under section 80C – LIC premium paid		<u>10,000</u>
Total Income		<u>92,000</u>

Statement of losses to be carried forward to A.Y. 2014-15

Particulars	₹
Business loss of A.Y. 2011-12 to be carried forward under section 72	50,000
Long term capital loss of A.Y. 2013-14 to be carried forward under section 74	35,000

Notes:

- (1) Share of profit from firm of ₹ 16,550 is exempt under section 10(2A).
- (2) Long-term capital loss cannot be set-off against short-term capital gains. Therefore, it has to be carried forward to the next year to be set-off against long-term capital gains of that year.

Question 8

Explain the provisions of carry forward and set off of business losses under section 72 of the Income-tax Act, 1961.

Answer

- (i) Section 72 applies where the net result of the computation under the head "Profits and gains of business and profession" for any assessment year is a loss to the assessee and such loss cannot be wholly set off against income under any head of income in accordance with the provisions of section 71. Such unabsorbed business loss can be carried forward to the subsequent assessment year for set off against the business income of that year and so on.
- (ii) However, such loss should not be in the nature of speculation business loss
- (iii) Business loss carried forward can be set off only against the income under the head "Profits and gains of business or profession", though not necessarily against the income from same business in which the loss was incurred.
- (iv) Business loss can be carried forward and set off even if the business in respect of which it was incurred and computed has been discontinued.
- (v) Business loss cannot be carried forward for more than 8 assessment years immediately succeeding the assessment year for which the loss was first computed.
- (vi) Under section 72(2), business loss brought forward should be adjusted first and thereafter unabsorbed depreciation, unabsorbed scientific research expenditure etc. should be adjusted.

Question 9

Write short notes on:

- (a) *Loss can be carried forward only by the person who has incurred the loss.*
- (b) *Carry forward and set off of losses by closely held companies.*

Answer

- (a) As per section 78(2), where any person carrying on business or profession has been succeeded in such capacity by another person otherwise than by inheritance, then the successor cannot have the loss of the predecessor being carried forward and set off against his income. However, there are certain exceptions, which are briefed hereunder:
- (i) Carry forward and set off of accumulated business loss of the amalgamating company against the income of the amalgamated company, if the amalgamation is within the meaning of section 72A.
 - (ii) Carry forward and set off of accumulated business loss of the demerged company in the hands of the resulting company, in a scheme of demerger, subject to fulfillment of certain conditions which the Central Government may for this purpose notify, to ensure that the demerger is for genuine business purposes;
 - (iii) In the case of reorganization of business, where a firm is succeeded by a company as per the provisions of section 47(xiii), or a sole proprietary concern is succeeded by a company as per the provisions of section 47(xiv), the accumulated loss of the firm or sole proprietor shall be deemed to be the loss of the successor company for the previous year in which the business reorganization was effected and the carry forward provisions shall be applicable to the successor company;
 - (iv) Where a business carried on by one person is acquired by another person through inheritance, then the successor can carry-forward and set-off the loss of the predecessor against his income.
 - (v) Carry forward and set off of business loss and unabsorbed depreciation of a predecessor company against the income of successor Limited Liability partnership if the conditions specified in Section 47(xiiib) are fulfilled.
- (b) According to section 79, in the case of a company in which public are not substantially interested, the unabsorbed business loss relating to any assessment year can be carried forward and set-off against the income in a subsequent assessment year subject to the fulfillment of the following condition:-

As on the last day of the previous year in which the loss is sought to be carry forward and set off, the shares of the company carrying not less than 51% of the voting power are continued to be held by the persons who held 51% of the total voting power on the last day of the previous year in which the loss was incurred. For example, if 60% of shareholders of the previous year 2008-09 continue to hold shares without interruption up to the previous year 2012-13 i.e. on 31.03.2013, then the loss of assessment year 2009-10 (previous year 2008-09) is eligible for set off against the income of the assessment year 2013-14.

This restriction is not applicable if the change in the said voting power takes place due to the death of a shareholder or transfer of shares by way of gift by a shareholder to his relative. Further, the restriction placed under section 79 is not applicable where there is a

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change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company, provided 51% of the shareholders of the amalgamating or demerged foreign company continue to be shareholders of the amalgamated or the resulting foreign company.

Question 10

Mr. A furnishes you the following information for the year ended 31.03.2013:

	(₹)
(i) Income from plying of vehicles (computed as per books) (He owned 5 heavy goods vehicle throughout the year)	2,10,400
(ii) Income from retail trade of garments (Computed as per books) (Sales turnover ₹ 21,70,000)	75,000
(iii) He has brought forward depreciation relating to A.Y. 2012-13	1,00,000
(iv) He deposited ₹ 70,000 into his PPF account on 6.1.2013 and ₹ 30,000 in 5 year bank fixed deposit	

Compute taxable income of Mr. A and his tax liability for the assessment year 2013-14 with reasons for your computation.

Answer

Computation of total income of Mr. A for the A.Y. 2013-14

Particulars	₹
Income from retail trade – as per books (See Note 1 below)	75,000
Income from plying of vehicles – as per books (See Note 2 below)	<u>2,10,400</u>
	2,85,400
Less : Set off of brought forward depreciation relating to A.Y. 2012-13	<u>1,00,000</u>
Gross total income	1,85,400
Less: Deduction under section 80C – Contribution to PPF and bank fixed deposit	<u>1,00,000</u>
Taxable income	<u>85,400</u>
Tax liability	Nil

Note :

- 1. Income from retail trade :** Presumptive business income under section 44AD is ₹ 1,73,600 i.e. 8% of turnover of ₹ 21,70,000. However, the income computed as per books is ₹ 75,000 which is to be further reduced by the amount of unabsorbed depreciation. Since the income computed as per books is lower than the income deemed under section 44AD, the assessee can adopt the income as per books.

The requirement to maintain books of accounts under section 44AA and to get them audited under section 44AB in case the assessee claims the profit and gains of business

to be lower than the presumptive income determined under section 44AD, would arise only if the total income exceeds the basic exemption limit. In this case, since the total income does not exceed the basic exemption limit, this mandatory requirement does not arise.

The total unabsorbed depreciation is ₹ 1,00,000. Out of this, ₹ 75,000 can be set-off against income from retail trade. The balance of ₹ 25,000 remains to be set-off from income from plying of vehicles.

2. **Income from plying of vehicles** : Income calculated under section 44AE(1) would be ₹ 5,000 x 12 x 5 which is equal to ₹ 3,00,000. However, the income from plying of vehicles as per books is ₹ 2,10,400 less ₹ 25,000, being the balance unabsorbed depreciation remaining to be set-off under section 32(2). Therefore, the income from plying of vehicles as per books is ₹ 1,85,400, which is lower than the presumptive income of ₹ 3,00,000 calculated as per section 44AE(1). Hence, the assessee can adopt the income as per books i.e. ₹ 1,85,400, provided he maintains books of account as per section 44AA and gets his accounts audited and furnishes an audit report as required under section 44AB.

It is to be further noted that in both the above cases, had presumptive income provisions been opted, all deductions under sections 30 to 38, including depreciation would have been deemed to have been given full effect to and no further deduction under those sections would be allowable.

If the assessee opted for income to be assessed on presumptive basis, his total income would be as under:

Particulars	₹
Income from retail trade under section 44AD [₹ 21,70,000 @ 8%]	1,73,600
Income from plying of vehicles under section 44AE [₹ 5,000 x 12 x 5]	<u>3,00,000</u>
	4,73,600
Less: Set off of brought forward depreciation – not possible and it is deemed that it has been allowed and set off	<u>Nil</u>
Gross total income	4,73,600
Less: Deduction under section 80C - Contribution to PPF and bank fixed deposit	<u>1,00,000</u>
Taxable income	<u>3,73,600</u>
Tax thereon	17,360
Add : Education cess @ 2% and Secondary and higher education cess @ 1%	<u>521</u>
Total tax liability	<u>17,881</u>

Note:

If the assessee has not maintained books of account as required under section 44AA for the business of plying of vehicles, then, he has to offer income only on presumptive basis given above.

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Question 11

Compute the tax liability of Mr. Madhavan for the Assessment year 2013-14 from the following particulars:

Sl. No.	Particulars	₹
(i)	Net house property income as computed under the head "Income from house property"	2,70,000
(ii)	Income from business before adjusting the following:	90,000
	(a) Brought forward business loss	70,000
	(b) Current year depreciation	30,000
	(c) Brought forward unabsorbed depreciation	1,40,000
(iii)	Short term capital gain – jewellery	1,60,000
(iv)	Long term capital loss –listed equity shares (STT paid)	40,000
(v)	Long term capital gains – Debentures	2,00,000
(vi)	Dividend on shares held as stock in trade	10,000
(vii)	Dividend from a company carrying on agricultural operation	12,000
(viii)	Income from growing and manufacturing coffee (cured and roasted)	1,00,000

During the previous year 2012-13, the assessee has donated ₹ 35,000 to an approved local authority for the promotion of family planning and purchased NSC VIII issue for ₹ 1,00,000.

Answer

Computation of taxable income of Mr. Madhavan for the A.Y 2013-14

	Particulars	₹	₹
I.	Net income from house property		2,70,000
II.	Income from business		
	Income from business	90,000	
	Income from coffee (cured and roasted) @ 40%	<u>40,000</u>	
		1,30,000	
	Less :Current year depreciation [Section 32(1)]	<u>30,000</u>	
		1,00,000	
	Less : Brought forward business loss	<u>70,000</u>	30,000
III.	Capital gains		
	Long term capital gain – debentures	2,00,000	
	Short term capital gain – Jewellery	<u>1,60,000</u>	3,60,000
IV.	Income from other sources		
	Dividend on shares (including shares in company carrying on agricultural operations)– exempt under section 10(34)		<u>Nil</u>
			6,60,000

Less: Brought forward unabsorbed depreciation		<u>1,40,000</u>
Gross total income		5,20,000
Less :Chapter VI-A deductions		
Section 80C : NSC VIII issue purchase		<u>1,00,000</u>
		4,20,000
Section 80G : Donation to a local authority for family planning. Amount donated ₹ 35,000 donation is to be restricted to 10% of gross total income as adjusted below		
Gross total income	4,20,000	
Less :Long term capital gain	<u>2,00,000</u>	
	<u>2,20,000</u>	
Deduction limited to 10% of gross total income ₹ 22,000 @ 100%		<u>22,000</u>
Total income		<u>3,98,000</u>

Computation of tax liability after applying the aggregation of agricultural income with non-agricultural income

Particulars	₹	₹
Agricultural income + non agricultural income = Total income = ₹ 60,000 + ₹ 3,98,000		4,58,000
Tax on LTCG of ₹ 2,00,000 @ 20%	40,000	
Tax on the remainder at slab rate	<u>5,800</u>	45,800
Less: Tax on ₹ 2,60,000 being basic exemption limit ₹ 2,00,000 plus ₹ 60,000 agricultural income		<u>6,000</u>
Tax liability		39,800
Add : Education cess and Secondary and higher education cess @ 3%		<u>1,194</u>
Total tax liability		<u>40,994</u>
Total tax liability (rounded off)		40,990

Note: Loss from an exempt source cannot be set-off against gains from a taxable source. Therefore, long-term capital loss on sale of listed equity shares cannot be set-off against long-term capital gains on sale of debentures.

Question 12

Simran, engaged in various types of activities, gives the following particulars of her income for the year ended 31.3.2013:

6.16 Income-tax

	Particulars	₹
(a)	Profit of business of consumer and house-hold products	50,000
(b)	Loss of business of readymade garments	10,000
(c)	Brought forward loss of catering business which was closed in Asst. Year 2012-13	15,000
(d)	Short-term loss on sale of securities and shares	15,000
(e)	Profit of speculative transactions entered into during the year	12,500
(f)	Loss of speculative transactions of Asst. Year 2008-09 not set off till Asst. Year 2012-13	15,000

Compute the total income of Simran for the A.Y. 2013-14.

Answer

Computation of total income of Simran for the A.Y. 2013-14

Particulars	₹	₹
Profit of business of consumer and house-hold products	50,000	
Less: Loss of business of readymade garments for the year adjusted under section 70(1)	<u>10,000</u>	
	40,000	
Less: Brought forward loss of catering business closed in A.Y. 2012-13 set off against business income for the current year as per section 72(1)	<u>15,000</u>	25,000
Profit of speculative transaction		<u>12,500</u>
Total Income		<u>37,500</u>

Notes :

1. Loss of speculative transaction of A.Y. 2008-09 is not allowed to be set off against the profit of speculative transaction of the A.Y.2013-14, since, as per the provisions of section 73(4), such loss can be carried forward for set-off for a maximum period of 4 years only i.e. up to A.Y.2012-13.
2. Short term capital loss of ₹ 15,000 on sale of securities and shares has to be carried forward as per section 74 since there is no income under the head Capital Gains for the A.Y.2013-14. The loss is to be carried forward for set off in future years against income chargeable under the head Capital Gains. Such loss can be carried forward for a maximum period of 8 assessment years.

Question 13

M/s. Vivitha & Co., a partnership firm, with four partners A, B, C and D having equal shares, furnishes the following details, summarized from the valid returns of income filed by it:

Assessment year	Item eligible for carry forward and set off
2011-12	Unabsorbed business loss ₹ 1,20,000
2012-13	Unabsorbed business loss ₹ 1,90,000
2012-13	Unabsorbed depreciation ₹ 1,20,000
2012-13	Unabsorbed long-term capital losses:
	-from shares ₹ 1,10,000
	-from building ₹ 1,90,000

C who was a partner during the last three years, retired from the firm with effect from 1.4.2012.

The summarized results of the firm for the assessment year 2013-14 are as under:

Particulars	₹
Income from house property	70,000
Income from business:	
Speculation	2,20,000
Non-speculation	(-) 50,000
Capital gains	
Short-term (from sale of shares)	40,000
Long-term (from sale of building)	2,10,000
Income from other sources	60,000

Briefly discuss, how the items brought forward from earlier years can be set off in the hands of the firm for the assessment year 2013-14, in the manner most beneficial to the assessee. Also show the items to be carried forward.

Answer

According to section 78(1), where there is a change in the constitution of the firm, the loss relatable to outgoing partner (whether by way of retirement or death) has to be excluded for the purposes of carry forward. However, this provision does not apply in the case of unabsorbed depreciation.

Accordingly, M/s. Vivitha & Co. is entitled to carry forward the losses to the extent detailed herebelow :

Item	Loss (₹)	Relatable to C (₹)	Balance eligible for carry forward (₹)
Business loss of A.Y.2011-12	1,20,000	30,000	90,000

6.18 Income-tax

Business loss of A.Y.2012-13	1,90,000	47,500	1,42,500
Long term capital loss of A.Y.2012-13	3,00,000	75,000	2,25,000

Set off of items in the hands of M/s. Vivitha & Co. for the A.Y. 2013-14

	Particulars	₹	₹
1.	Income from house property		
	Current year income	70,000	
	Less: Brought forward unabsorbed depreciation (See Note 1)	<u>70,000</u>	NIL
2.	Profits and gains of business or profession		
	Current year speculative business profits	2,20,000	
	Less: Current year Non-speculation loss set off (See Note 2)	<u>50,000</u>	
		1,70,000	
	Less: Brought forward business losses of earlier year (2011-12 ₹ 90,000 and 2012-13 ₹ 80,000) (See Note 3)	<u>1,70,000</u>	NIL
3.	Capital gain		
	Short term (from sale of shares)		40,000
	Long-term (from sale of building)	2,10,000	
	Less: Brought forward long term capital loss of A.Y.2012-13 (See Note 4)	<u>2,10,000</u>	NIL
4.	Income from other sources		
	Current year income (before set off)	60,000	
	Less: Brought forward depreciation (See Note 1)	<u>50,000</u>	<u>10,000</u>
	Total Income		<u>50,000</u>
	Losses to be carried forward to A.Y. 2014-15		
	Business loss (₹ 1,42,500 - ₹ 80,000)		62,500
	Long term capital loss (₹ 2,25,000 – ₹ 2,10,000)		15,000
	Both these losses relate to A.Y. 2012-13		

Notes:

- (1) Unabsorbed depreciation can be set off against income from any head. Hence, it will be advantageous to set off unabsorbed depreciation against income from house property and income from other sources.
- (2) In the current year, non-speculation business loss can be set off against speculation business income.
- (3) Brought forward non-speculation business loss can also be set off against speculation business income of current year.
- (4) According to section 74, brought forward long-term capital losses shall be set off only against long-term capital gains of current year.

- (5) The set-off and carry forward of losses should be most beneficial to the assessee. If the students set off brought forward depreciation against current year's business income first, then the quantum of brought forward business loss which can set off against current year's business income will be lower. This will not be beneficial to the assessee.

Question 14

Mr. P, a resident individual, furnishes the following particulars of his income and other details for the previous year 2012-13:

Sl. No.	Particulars	₹
(i)	Income from salary	18,000
(ii)	Net annual value of house property	70,000
(iii)	Income from business	80,000
(iv)	Income from speculative business	12,000
(v)	Long term capital gain on sale of land	15,800
(vi)	Loss on maintenance of race horse	9,000
(vii)	Loss on gambling	8,000

Depreciation allowable under the Income-tax Act, 1961, comes to ₹ 8,000, for which no treatment is given above.

The other details of unabsorbed depreciation and brought forward losses (pertaining to A.Y. 2012-13) are:

Sl. No.	Particulars	₹
(i)	Unabsorbed depreciation	9,000
(ii)	Loss from speculative business	16,000
(iii)	Short term capital loss	7,800

Compute the gross total income of Mr. P for the Assessment year 2013-14, and the amount of loss that can or cannot be carried forward.

Answer**Computation of Gross Total Income of Mr. P for the A.Y. 2013-14**

Particulars	₹	₹
(i) Income from salary		18,000
(ii) Income from House Property		
Net annual value	70,000	
Less : Deduction under section 24 (30% of ₹ 70,000)	<u>21,000</u>	49,000
(iii) Income from business and profession		
(a) Income from business	80,000	
Less : Current year depreciation	<u>8,000</u>	

6.20 Income-tax

	72,000	
Less : Unabsorbed depreciation	<u>9,000</u>	63,000
(b) Income from speculative business	12,000	
Less : Brought forward loss from speculative business	<u>12,000</u>	Nil
(Balance loss of ₹ 4,000 (i.e. ₹ 16,000 – ₹ 12,000) can be carried forward to the next year)		
(iv) Income from capital gain		
Long term capital gain on sale of land	15,800	
Less : Brought forward short term capital loss	<u>7,800</u>	<u>8,000</u>
Gross total income		<u>1,38,000</u>

Amount of loss to be carried forward to the next year

Particulars	₹
Loss from speculative business (to be carried forward as per section 73)	4,000
Loss on maintenance of race horses (to be carried forward as per section 74A)	9,000

Notes :

- Loss on gambling can neither be set-off nor be carried forward.
- As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- Speculative business loss can set off only against income from speculative business of the current year and the balance loss can be carried forward to A.Y. 2014-15. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 73(4).

Question 15

Ms. Geeta, a resident individual, provides the following details of her income / losses for the year ended 31.3.2013:

- Salary received as a partner from a partnership firm ₹ 7,50,000. The same was allowed to the firm.
- Loss on sale of shares listed in BSE ₹ 3,00,000. Shares were held for 15 months and STT paid on sale.
- Long-term capital gain on sale of land ₹ 5,00,000.
- ₹ 51,000 received in cash from friends in party.
- ₹ 55,000, received towards dividend on listed equity shares of domestic companies.
- Brought forward business loss of assessment year 2012-13 ₹ 12,50,000.

The return for assessment year 2012-13 was filed in time.

Compute gross total income of Ms. Geeta for the Assessment Year 2013 -14 and ascertain the amount of loss that can be carried forward.

Answer

Computation of Gross Total Income of Ms. Geeta for the Assessment Year 2013-14

Particulars	₹
Profits and gains of business and profession	
Salary received as a partner from a partnership firm is taxable under the head "Profits and gains of business and profession"	7,50,000
Less: brought forward business loss of Assessment Year 2012-13 to be set-off against business income	<u>7,50,000</u>
	Nil
Capital Gains	
Long term capital gain on sale of land (See Note 2)	5,00,000
Income from other sources	
Cash gift received from friends - since the value of cash gift exceeds ₹ 50,000, the entire sum is taxable	51,000
Dividend received from a domestic company is exempt under section 10(34)	<u>Nil</u>
	<u>51,000</u>
Gross Total Income	<u>5,51,000</u>

Notes :

- Balance brought forward business loss of assessment year 2012-13 of ₹ 5,00,000 has to be carried forward to the next year.
- Long-term capital loss on sale of shares cannot be set-off against long-term capital gain on sale of land since loss from an exempt source cannot be set-off against profit from a taxable source. Since long-term capital gain on sale of listed shares on which STT is paid is exempt under section 10(38), loss on sale of listed shares is a loss from an exempt source. So, it cannot be set-off against long-term capital gain on sale of land, which is a profit from a taxable source.

EXERCISES

- In a case where the business is succeeded by inheritance, and the legal heirs constitute themselves as a partnership firm, then -
 - the partnership firm can carry forward and set-off the loss of the predecessor.
 - the partnership firm cannot carry forward and set-off the loss of the predecessor.
 - the loss of the predecessor can be carried forward and set-off only by the individual partners in proportion to the share of profits of the firm.

6.22 Income-tax

2. According to section 80, no loss which has not been determined in pursuance of a return filed in accordance with the provisions of section 139(3), shall be carried forward. The exceptions to this are -
 - a) Only loss under the head "Capital Gains" under section 74.
 - b) Loss under the head "Capital Gains" and unabsorbed depreciation carried forward under section 32(2)
 - c) Loss from house property and unabsorbed depreciation carried forward under section 32(2).
3. Section 70 enables set off of losses under one source of income against income from any other source under the same head. The exceptions to this section are -
 - a) Loss under the head "Capital Gains", Loss from speculative business and loss from the activity of owning and maintaining race horses
 - b) Long-term capital loss, Loss from speculative business and loss from the activity of owning and maintaining race horses
 - c) Short-term capital loss and loss from speculative business
4. The maximum period for which speculation loss can be carried forward is -
 - a) 4 years
 - b) 8 years
 - c) indefinitely
5. Mr.A incurred short-term capital loss of ₹ 10,000 on sale of shares through the National Stock Exchange. Such loss can be set-off -
 - a) only against short-term capital gains
 - b) against both short-term capital gains and long-term capital gains
 - a) against any head of income.
6. Write short notes on -
 - a) Inter-head adjustment
 - b) Inter-source adjustment.
7. Discuss the correctness of the following statements -
 - (i) Long term capital loss can be set-off against short-term capital gains arising in that year.
 - (ii) Business loss can be set-off against salary income arising in that year.
8. Discuss briefly on -
 - a) Carry forward and set-off of losses by closely held companies
 - b) Set-off and carry forward of speculation business loss.

9. *State the conditions to be fulfilled by an amalgamated company for carry forward of the accumulated loss and unabsorbed depreciation of the amalgamating company.*
10. *Discuss the provisions of the Income-tax Act, 1961 regarding set-off and carry forward of the following losses -*
 - a) *Loss under the head "Capital Gains"*
 - b) *Loss from the activity of owning and maintaining race horses.*
11. *Discuss briefly on carry forward and set off of losses in the case of change in constitution of firm or on succession under section 78 of the Income-tax Act, 1961.*
12. *What are the consequences of demerger as to the accumulated loss and unabsorbed depreciation?*

Answers

1. a; 2. c; 3. b; 4. a; 5. b