SET OFF OF CARRY FORWARD OF ADVANCES

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Sections 34 to 38 deal with Set off and carry forward of losses. In the following pages an effort is being made to clarify these rules with the help of examples:

General Rules:

1. First of all net income under a particular "Head of income" will be computed. For example if the assessee has two or more sources of income under a particular head; loss, if any, sustained by him in any source will be set off against profits and gains of other source. See sub steps (i) and (ii) of Ist step of assessment year 1990-91.

2. Total income or total loss for the assessment year will then be computed. The loss sustained under any head of income, (other than speculation losses and losses under the head "Capital gains"), will be set off against income of any other head, assessable for the assessment year. The loss cannot be set off against the income to which sub-section (7) or (9) or Section 12 applied. See Ist step of assessment year 1994-95.

(REF: Section 34).

3. Although the speculation losses and losses under the head "Capital gains" cannot be set off against the income from other heads but the losses sustained under the other heads can be set off against the speculation income and income from the Head "Capital gains" if assessable. See Ist step of assessment year 1995-96.

(REF: Section 34).

4. The loss sustained under the head " business and profession" if not set off as explained above, will be carried forward only to the following year and set off against the profits and gains of same business if continued to be carried on and assessable in that year. Before applying this rule, the current loss sustained in any source of head of income will be set off first as explained in rule 1, 2 and 3 above. The carried forward loss will then be set off, if there is any profit and gain in the same business. See sub steps (i) and (ii) of IInd step of assessment year 1993-94

(REF: Section 35)

5 If the loss carried forward cannot be set off in this manner the amount of loss not so set off will be carried forward to next year and so on. But no loss shall be carried forward to more than six assessment years immediately succeeding the assessment year for which the loss was first computed. See IInd step of assessment year 1995-96

(REF: Section 35).

General Rules Regarding Speculation Losses.

1. Where speculation transactions are of such nature as to constitute a business, it shall be deemed to be distinct and separate from any other business carried on by assessee (Ref Explanation to Sec: 22).

In case an assessee sustains a loss in respect of any speculation business it shall not be set off except against profits or gain, if any, of another speculation business if assessable for that year. See sub step (ii) of Ist step of assessment year 1990-91.

(REF: Section 36 (1).

2. If any speculation loss cannot be set off in the above manner so much of the loss as is not so set off shall be carried forward to the following assessment year and set off against the profits and gains if any of speculation business carried on and assessable for that year. See Ist step of assessment year 1994-95

(REF: Section 36 (2).

3. As against the provision of section 35 wherein the loss can be set off only in the following assessment year if such business or profession is continued to be carried on in that year, it is not necessary to continue the speculation business in the following years. In case there is no speculation business in the following year the loss shall be carried forward to the next following year and so on but no loss shall be carried forward for more than six assessment year for which the loss was first computed. See sub step (i i i) of IInd step of assessment year 1992-93.

(REF: Section 36 (2).

General Rules Regarding Loss Under The Head "Capital Gains"

1. In case an assessee sustains a loss under the head : capital gains: , such loss shall be carried forward to the following assessment years and set off against the capital gains chargeable for that assessment year. See IVth step of assessment year 1993-94

(REF: Section 37).

2. The amount of loss if not set off in the above manner shall be carried forward to the following assessment year and so on but no loss shall be carried forward for more than six assessment years immediately succeeding the assessment year for which the loss was first computed. See IVth step of assessment year 1993-94.

(REF: Section 37).

3. In case the loss sustained in any income year does not exceed Rs. 5,000/=, it shall not be carried forward. In case it exceeds Rs. 5,000/= only so much of loss shall be carried forward as exceeds Rs. 5,000/=. See IInd step of assessment year 1994-95

REF: SEC: 37 (Ist proviso)

SET OFF AND CARRY FORWARD OF LOSSES:

	Head of income	Asstt: year 1990-91		Asstt: year 1991-92		Asstt: year 1992-93		Asstt: year 1993-94		Asstt: year 1994-95		Asstt: year 1995-96		Asstt: year 1996-97	
		Income	Loss	Income	Loss	Income	Loss	Income	Loss	Income	Loss	Income	Loss	Income	Loss
1.	House property	10,000	--	--	2,000	--	10,000	5,000	--	10,000	--	--	12,000	20,000	--
2.	Other sources	--	15,000	2,000	--	3,000	--	--	10,000	--	2,000	2,000	--	--	10,000
3.	a) Business & Profession														
i)	Sajjad Stores	20,000	--	--	12,000	6,000	--	30,000	--	--	12,000	6,000	--	9,000	--
ii)	Wahid & Co.	--	12,000	2,000	--	--	10,000	--	--	--	--	--	--	--	--
	b) Speculation Business														
i)	Stocks & Shares	--	20,000	--	--	--	--	--	10,000	--	--	--	6,000	8,000	--
ii)	Cotton	10,000	--	5,000	--	--	--	--	--	--	--	30,000	--	--	6,000
4.	Capital gains	--	12,000	--	10,000	9,000	--	--	8,000	8,000	--	--	3,000	7,000	--

TOTAL INCOME CARRY FORWARD LOSS	Rs. 3,000 Speculation Rs.10,000/- can be set off upto (2004-2005) capital gains Rs.12,000/- can be set off from (94-95) (2000-2001)	Rs. Nil Speculation Rs.10,000/- can be set off upto (2004-2005) Sajjad stores business Rs.1,000/- can be set off upto 97-98. Capital Rs.22,000/- can be set off from 94-95 to 1990-91	Rs. Nil Speculation Rs.10,000/- can be set off upto (2004-2005) Sajjad stores Rs.1,000/- can be set off upto 1997-98 Wahid & Co. Rs.4,000/- can be set off upto 1998-99 Capital gain Rs.22,000/- can be set off from 94-95 to 2000-2001	Rs. 24,000 Speculation Rs.10,000/- can be set off upto (2004-2005) Speculation Rs.10,000/- can be set off upto 1999-2000 Capital gain Rs.30,000/- can be set off upto 2000-2001.	Rs. Nil Speculation Rs.10,000/- can be set off upto 1996-97 Speculation Rs.10,000/- can be set off upto 1999-2000 Captial gain Rs.26,000/- can be set off upto 2000-2001.	Rs. Nil Speculation Rs.10,000/- can be set off upto (1996-97) Speculation Rs.10,000/- can be set off upto 1999-2001 Sajjad stores (business) Rs.20,000/- can be set off upto 2001-2002. Capital gain Rs.26,000/- can be set off upto 2000-2001.	Rs. Nil Business Sajjad stores Rs.20,000/- can be set 2001-2002 Capital gains Rs.26,000/- can be set off upto 2000-2001.	Rs. 12,000 Business Sajjad stores Rs.11,000/- can be set 2001-2002 Capital gains Rs.19,000/- can be set off upto 2000-2001.

Assessment year 1990-91		**Ist year of Assessment.**	
	Particulars of income / loss.	Income	Loss
1.	House property.	10,000	
2.	Other sources.	-	15,000
3.	(a) Business & Profession:		
(i)	Sajjad stores.	20,000	-
(ii)	Wahid & Co.	-	12,000
(b)	Speculation Business:		
(i)	Stocks & shares.	-	20,000
(ii)	Cotton.	10.000	-
4.	Capital gains.		

Ist Step: (Income under Particular heads)

(i) Business and profession.

There are two sources of income Sajjad stores and Wahid & Co. The loss in Wahid & Co. will be adjusted against the profit of Sajjad stores.

Net income under this head is, therefore, Rs. 8,000/=.

(ii) Speculation business.

Again there are two sources of income (Stock and share, cotton). The loss in stock and share (Speculation) will be adjusted against the profit of cotton (Speculation). Net loss under this head is Rs.10,000/= in stock and share's speculation business.

(iii) Capital gains.

The loss under this head is Rs.12,000/=

(iv) House property.

Net income in this head is Rs.10,000/=.

(v) Other Sources.

Net loss in this head is Rs.15,000/=.

IInd Step: Set off and carry forward of loss:

(i) Under the provisions of section 34, the loss under the head :other sources: will be set off against the income under the heads : "Business and profession", and "house Property". The loss will not be set off against the income under the head "Capital Gains" because it is not assessable up-to assessment year 1993-94. Therefore net income is Rs.3,000/= i.e. (8,000 + 10,000 - 15,000 = 3,000/=).

(ii) Under the provisions of section 36 the speculation business (stocks and shares) loss Rs.10,000/= will be carried forward and set off against any speculation income in the following assessment years. This loss can be carried forward up-to assessment year 1996-97.

(iii) Although income under the head capital gains will be assessable in assessment year 1994-95, but the loss in assessment year 1990-91 under this

head i.e. Rs 12,000/= will be carried forward and set off against the income if any, in assessment year 1994-95. If it is not so set off, it will be carried forward up-to assessment year 1990-91. REF: SEC: 37 (last proviso).

(iv) a) Total income in the assessment year is Rs. 3,000/=.

b) Loss carry forward
1. Speculation loss c / f 1st year Rs. 10,000/=
2. "Capital gains " Loss c / f (94-95) will be first year. Rs. 12,000/=

Assessment year 1991-92.

1. Speculation loss b / f 1st year. Rs. 10,000/=
2. "Capital gains" loss b / f (94-95 will be first year). Rs. 12,000/=

Particulars of income / loss.

	Income	Loss
1. House property	2,000	-
2. Other sources	2,000	-
3. (a) Business & Profession:		
(i) Sajjad stores.	-	12,000
(ii) Wahid & Co.	2,000	-
(b) Speculation Business:		
(i) Stock & shares	-	-
(ii) Cotton.	5,000	-
4. Capital gains.	-	10,000

Ist Step: Income under particular heads:

	Income	Loss
(i) Business and profession (Sajjad stores)	-	10,000
(ii) Speculation business (Speculation in cotton)	5,000	-
(iii) Capital gains.	-	10,000
(iv) House property.	-	-
(v) Other sources.	2,000	-

IInd Step:

(i) Income under the provisions of section 34 is Rs.5,000 + 2,000 + 2,000 = Rs.9,000. Net loss in business and profession (Sajjad stores) is Rs.10,000/=. Un-adjustable loss in business & profession (Sajjad stores) will be (10,000/=) This loss will be carried forward to the following year for set off against same business if continued. (Section 35).

(ii) The loss in the business and profession has already been adjusted against the income of speculation business and there is net loss in the current assessment year so the speculation loss Rs.10,000/= which has been brought forward from previous assessment year cannot be set off this year. It

will be carried forward as it is, to the next assessment year.

(iii) The loss of Rs.10,000/= under the head capital gains will be carried forward to assessment year 192004-2005. Now the loss which is to be set off in 192004-2005 is Rs.22,000/= (loss Rs.12,000 computed in 1990-91 is included in Rs.22,000/=).

(iv) a) Total income = Nil.

b) Loss carry forward.
1. Speculation loss c/f 2nd year.Rs.10,000/=
2. Sajjad stores loss c/f 1st yearRs. 1,000/=
3. "Capital gains" loss c/f 2004-2005 will be 1st year. Rs.22,000/=

Assessment year 1992-93.

1. Speculation loss b/f 2nd year.Rs.10,000/=
2. Sajjad stores loss b/f 1st year.Rs. 1,000/=
3. "Capital gains" loss b/f (2004-2005 will be 1st year). Rs.22,000/=

Particulars of income/loss.

	Income	Loss
1. house property.	--	10,000
2. Other sources	3,000	--
3. (a) Business & Profession:		
(i) Sajjad stores.	6,000	--
(ii) Wahid & Co.	--	10,000
(b) Speculation Business:		
(i) Stocks & shares.	--	--
(ii) Cotton.	--	--
4. Capital gains	9,000	--

1st Step: Income under particular heads:

	Income	Loss
(i) Business and profession (Wahid & Co.)	--	4,000
(ii) Speculation business.	Discontinues	
(iii) Capital gains.	9,000	--
(iv) House property.	--	10,000
(v) other sources.	3,000	--

IInd Step: Set off and carry forward of losses:

(i) Loss in house property cannot be adjusted against the income of capital

gains being not assessable up-to assessment year 1993-94. However, the loss Rs.10,000/= under head House Property can be adjusted against the income under the head "Other Sources". But the income from this head enable us to adjust only Rs.3,000/=. So net loss Rs.7,000/= under the head house property will remain unabsorbed which cannot be carried forward.

(ii) The loss of Rs.4,000/= (Wahid & Co.) will be carried forward to the assessment year 1993-94 and the loss Rs.1,000/= of Sajjad stores, which has been brought forward from the previous year cannot be set off this year and as such it will be carried forward to next year.

(iii) The business in speculation is not carried on by the assessee any longer so the speculation loss of Rs.10,000/= which has been brought forward from the previous year cannot be set off this year. It will be carried forward to the next assessment year.

(iv) Although there is income under the head "capital gains" amounting to Rs.9,000/=, it is not assessable in this assessment year. Therefore the loss

Rs.22,000/= under capital gains (computed in assessment year 1990-91 and 1991-92) cannot be adjusted against this income.

(v) a) Total income = Nil.

b) Loss to carry forward.
1. Speculation loss c/f 3rd year Rs.10,000/=
2. Sajjad stores c/f 2nd year Rs. 1,000/=
3. "Capital gains" loss c/f (2004-2005 will be 1st year). Rs.22,000/=
4. Wahid & Co. c/f 1st year. Rs. 4,000/=

Assessment year 1993-94.

1. Speculation loss b/f 3rd year Rs.10,000/=
2. Sajjad stores b/f 2nd year Rs. 1,000/=
3. "Capital gains" loss b/f (94-95 will be 1st year). Rs.22,000/=
4. Wahid & Co. loss b/f 1st year. Rs. 4,000/=

Particulars of income/loss.

	Income	Loss
1. House property.	5,000	--
2. Other sources.	--	10,000
3. (a) Business & Profession:		
(i) Sajjad stores.	30,000	--
(ii) Wahid & Co.	--	--
(b) Speculation Business:		
(i) Stocks & shares.	--	10,000
(ii) Cotton.	--	--
4. Capital gains.		8,000

Ist Step:

The loss under the head "other sources" will be set off against income under the head "house property" and "Business" will be set off against income under the head "house property" and "Business and Profession". Net income = 30,000 (Business & Profession) + 5,000 (House property) - 10,000 (Other sources) = Rs.25,000/=.

IInd Step:

(i) Since the business of Wahid & Co. has been discontinued, the loss of Rs. 4,000/= brought forward, which was first computed in assessment year 1992-93, cannot be set off and will not be carried forward, any more.

(ii) Since income in step first is Rs. 25,000/= from business of Sajjad stores, so the loss of Rs. 1,000/= which was first computed in assessment year 1992-93 will be set off and the total income will be (25,000-1,000) = Rs.24,000/=.

IIIrd Step:

The loss Rs. 10,000/= of speculation business in this assessment year cannot be set off against the income of any other business. So it will be carried forward to the next assessment year and can be carried forward upto assessment year 1999-2000. The loss which was first computed in assessment year 1990-91 cannot be set off in this year and it will also be varied forward to the next assessment year.

IVth Step:

The loss of Rs. 8, 000/= under the head capital gains cannot beset off against any income of this year so it will be carried forward to next assessment year (2004-2005). The loss under head capital gains in assessment years 1990-91 and 1991-92 will be carried forward alongwith. So the loss carried forward for assessment year 1994-95 will be (22,000 = 8,000) Rs. 30,000/= and it can be site off up-to the assessment year 2000-2001.

Vth Step

a) Total income = Rs.24,000/=.

b) Loss carry forward

1.	Speculation loss c/f 4th year	Rs. 10,000/=
2.	Speculation loss c/f 1st year	Rs. 10,000/=
3.	Speculation gains loss c/ 1st year	Rs. 30,000/=

Assessment year 192004-2005.

1.	Speculation loss c / f 4th year	Rs. 10,000/=
2.	Speculation loss c / 1st year	Rs. 10,000/=
3.	Speculation gains loss c / f 4th year	Rs. 30,000/=

Particulars of income / loss.

	Income	Loss
1. House property.	10,000	--
2. Other sources.	-	2,000
3. (a) Business & Profession		

(i) Sajjad stores.	-	12,000
(ii) Wahid & Co.	-	
(b) Speculation Business		
(i) Stock & Shares.	-	-
(ii) Cotton.		-
4. Capital gains.	8,000	-

Ist Step:

Loss under the head "Other sources", "Business and Profession" can be set off against the income from heads "House Property" and "Capital Gains" (capital gains head is assessable in assessment year 192004-2005) so income = 10,000 + 8,000 - (2,000 + 12.000) = Rs. 4,000/-.

This income will be considered as net income from capital gains.

IInd Step:

The loss under the head capital gains carried forward for set off in assessment year 192004-2005 is Rs. 30,000=. This loss can only be set off against the income under the head capital gains. The income available for set off losses (capital gains head) is Rs. 4,000= so loss (30,000 - 4,000) Rs. 26,000= will be carried forward for set off in the next assessment year.

IIIrd Step:

The speculation business is discontinued in this assessment year so the speculation losses carried forward for set off in this assessment year will be carried forward to next assessment year.

IVth Step:

a) Total income = Nil.

b) Loss / Carry forward

1.	Speculation loss c f 5th year	Rs. 10,000=
2.	Speculation loss c/f 2nd year	Rs. 10,000=
3.	"Capital gains" loss c/f 2nd year	Rs. 26,000=

Assessment year 1995-96.

1. Speculation loss c f 5th year Rs. 10,000=
2. Speculation loss c/f 2nd year Rs. 10,000=
3. "Capital gains" loss b/f 2nd year Rs. 26,000=

Particulars of income / loss.

	Income	Loss
1. House property.	12,000	-
2. Other sources.	-	30,000
3. (a) Business & Profession:		
(i) Sajjad Stores.	-	20,000
(ii) Wahid & Co.	-	-
(b) Speculation business:		
(i) Stocks & Shares.	23,000	-
(ii) Cotton.	-	20,000
4. Capital gains.	6,000	-

Ist Step

The loss under head "Other sources" can be set off against the income of other heads. Net income under speculation business is (23,000 - 20,000 = Rs. 3,000/=) and the loss under the head other sources can be adjusted against (3,000 + 6,000 + 12,000 = Rs.21,000/=) so net loss under the head other sources is (30,000 - 21,000) Rs.9,000/=. The loss (Rs. 9,000/=) cannot be carried forward.

IInd Step:

There is no income against which the loss Rs. 20,000/= of Business and Profession (Sajjad stores) can be adjusted so it will be carried forward for set off to next assessment year 1996-97.

IIIrd Step:

The loss Rs. 26,000/=, carried forward to set off in this assessment year, under the head capital gains will again be carried forward to assessment year 1996-97 because there is no surplus income under the head capital gains to set off this loss.

IVth Step

Although the net income under the head speculation in business is Rs. 3,000/= but it is used up to set off the loss under the head "Other sources". So losses which were carried forward under the head "speculation business" for set off in this assessment year cannot be set off and the losses will be carried forward as they are, for set off in the next assessment year 1996-97

Vth Step:

a) Total income = Nil.

b) Loss carry forward.

1. Speculation loss c/f 6th year (last year). Rs. 10,000/=
2. Speculation loss c/f 3rd years Rs. 10,000/=
3. Sajjad stores c/f 1st year Rs. 20,000/=
4. "Capital gains " loss c/f
5. 3rd years. Rs. 26,000/=

Assessment year 1996-97.

1. Speculation loss b/f 6th year (last year). Rs. 10,000/=
2. Speculation loss b/f 3rd years Rs. 10,000/=
3. Sajjad stores c/f 1st year Rs. 20,000/=
4. "Capital gains " loss b/f
5. 3rd years. Rs. 26,000/=

Particulars of income / loss.

	Income	Loss
1. House property .	-	12,000

2. Other sources.	2,000	-
3. (a) Business & Profession:		
(i) Sajjad stores	6,000	-
(ii) Wahid & Co.	-	-
(b) Speculation Business:		
(i) Stocks & Shares.	-	6,000
(ii) Cotton.	30,000	-
4. Capital gains	-	3,000

Ist Step:

The loss Rs. 12,000/= under the head "House property" can be set off against the income of any other head. Total income under heads "Other sources", "Business and Profession " and "Speculation Business" is Rs. 32,000 i.e. 2,000 + 6,000 (30,000 - 6,000). The loss Rs. 12,000 under the head "House Property" will be set off against Rs.32,000/= and the remaining amount (32,000 - 12,000 = Rs. 20,000/= will be the income under the speculation business and the carried forward speculation business losses. Rs.20,000/= first computed in assessment years 1990-91 and 1993-94) from previous assessment year will be set off fully.

IInd Step:

The loss Rs. 3,000/= under the head " Capital gain" cannot be carried forward to set off in assessment year 1997-98 because the loss sustained is less than Rs. 5,000/=. The loss exceeding Rs. 5,000/= can be carried forward for set off to the next assessment year Ref: Section 37 (First Proviso).

The carried forward loss under head "capital gains" in previous year will be carried forward as it is.

IIIrd Step:

The loss of business and profession which was carried forward to set off in this year cannot be set off, so it will be carried forward to assessment year 1997-98 as it is.

IVth Step:

a) Total income = Nil.

b) Loss Carry forward. 1. Sajjad stores loss c/f 2nd yearRs. 20,000/=
2. "Capital gains: loss c/f 4th yearRs. 26,000/=

Assessment year 1997-98

1. Sajjad stores stores loss/f 2nd year Rs. 20,000/=
2. "Capital gains" loss b/f 4th year Rs. 26,000/=

Particulars of income/loss.

	Income	Loss
1. House property	20,000	-
2. Other sources.	-	10,000

3. (a) Business & Profession:		
(i) Sajjad stores	9,000	
(ii) Wahid & Co.	-	
(b) Speculation Business:		
(i) Stocks and shares	8,000	-
(ii) Cotton.	-	6,000
4. Capital gains.	7,000	-

1st Step:

Loss Rs. 10,000/= under the head "Other sources" can be set off against the income Rs.20,000/= under the head "House Property" so net income will be 20,000 + 9,000 = 2,000 = 7,000 - 10,000 = Rs. 28.000/=.

II Step:

The loss Rs. 20,000/= was carried forward for set off in this assessment year under the head "Business and Profession" from the previous assessment year. Rs. 9,000/= out of this loss will be set off against the income Rs. 9,000/= (included in net income Rs. 28,000/=) under the same source and the remaining loss (20,000 - 9,000) Rs. 11,000/= will be carried forward to the next assessment year (1998-99) which can be set off up-to the assessment year 2001-2002.

IIIrd Step:

Since the income under the head capital gains is Rs. 7,000/= (included in net income Rs. 28,000/=) so Rs. 7,000/= out of the loss carried forward under this head for set off in assessment year 1997-98 will be set off and the remaining loss (26,000 - 7,000) Rs. 19,000/= will be carried forward to the next assessment year which can be set off up-to the assessment year 2000-2001.

IVth Step:

a) Total income = Rs. 28,000 - (7, 000 + 9,000) = Rs. 12,000/=.

b) Loss Carry-
1. Sajjad stores loss c/f 3rd year Rs. 11,000/=
2. "Capital gains" loss c/f 5th year Rs. 19,000/=