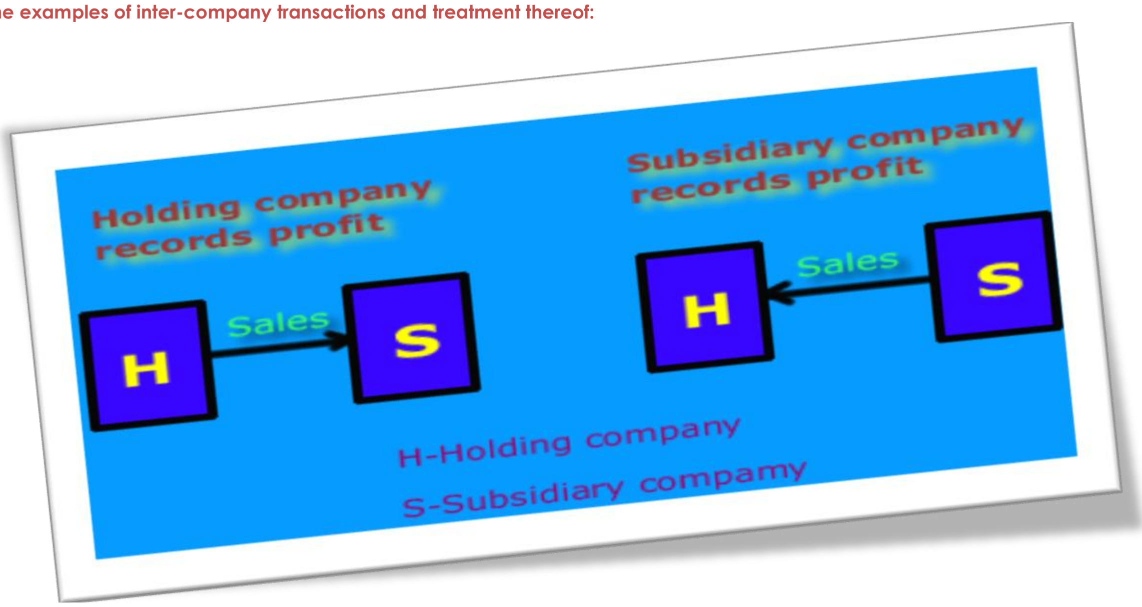
CMA Students Newsletter(For Final Students)

Vol.7C: July 15,2014

TREATMENT OF UNREALISED PROFIT

While preparing a consolidated Profit & Loss A/c it is necessary that all the profits arising out of inter- company transactions i.e. the unrealized profits to be eliminated.
Inter-company transactions can be of two types –
(i) Downstream Transaction (Sales made by parent to Subsidiary);
(ii) Upstream Transaction (Sales made by Subsidiary to parent)
Here are some examples of inter-company transactions and treatment thereof:



From the following information determine the amount of unrealized profit to be eliminated and the apportionment of the same. Om Ltd. holds 80% Equity shares of Shanti Ltd.

(i) Om Ltd. sold goods costing ₹7,50,000 to Shanti Ltd. at a profit of 25% on Cost Price. Entire stock were lying unsold as on the date of Balance Sheet.
(ii) Again, Om Ltd. sold goods costing ₹13,50,000 on which it made a profit of 25% on Sale Price. 60% of the value of goods were included in closing stock of Shanti Ltd.
(iii) Shanti Ltd. sold goods to Om Ltd. for ₹12,00,000 on which it made a profit of 20% on Cost . 40% of the value of goods were included in the closing stock of Om Ltd.

Solution:

Situation I

Transaction	**Sale by Om Ltd. to Shanti Ltd. [Holding → Subsidiary]**
Nature of Transfer	**Downstream Transaction**
Profit on Transfer	Cost ₹7,50,000 × Profit on Cost i.e. 25% = ₹1,87,500
% of Stock included in Closing Stock	100%
Unlealised Profit to be eliminated i.e. to be transferred to the Stock Reserve	₹ 1,87,500 × 100% = ₹1,87,500
Share of Majority – Reduced from Group Reserve	₹ 1,87,500 × 100% = ₹1,87,500
Share of Minority	Unrealised Profit in case of a Downstream Transaction is fully adjusted against Group Reserves. Minority Interest is not relevant here.

Situation II

Transaction	**Sale by Om Ltd. to Shanti Ltd. [Holding → Subsidiary]**
Nature of Transfer	**Downstream Transaction**
Profit on Transfer	Cost ₹13,50,000 × Profit on Sale Price i.e.25% ÷ Cost on Sale i.e. 5% = ₹4,50,000
% of Stock included in Closing Stock	60%
Unlealised Profit to be eliminated i.e. to be transferred to the Stock Reserve	₹ 4,50,000 × 60% = ₹2,70,000
Share of Majority – Reduced from Group Reserve	100% × ₹2,70,000 = ₹2,70,000
Share of Minority	Unrealised Profit in case of a Downstream Transaction is fully adjusted against Group Reserves. Minority Interest is not relevant here.

Situation III

Transaction	Sale by Shanti Ltd. to Om Ltd. [Subsidiary → Holding]
Nature of Transfer	Upstream Transaction
Profit on Transfer	Sale ₹12,00,000 × Profit on Cost 20% ÷Sale to Cost 120% =₹2,00,000
% of Stock included in Closing Stock	40%
Unlealised Profit to be eliminated i.e to be reduced from Closing Stock	₹ 2,00,000 × 40% = ₹80,000
Share of Majority – Reduced from Group Reserve	Share of Majority i.e. 80% × Unrealised Profit ₹80,000 = ₹64,000
Share of Minority – Reduced from Minority Interest	Share of Majority i.e. 20% × Unrealised Profit ₹80,000 = ₹16,000

Purchase of Shares in Lots

Sometimes the holding company acquires the controlling interest in more than one lot i.e. it acquires small percentage of shares more than once and gains the controlling interest gradually, which affects the treatment of profits, here is an example explaining the same:

Following are the balances in the Balance Sheet of Blue Ltd. and Green Ltd.

- As on 31.03.2013 Equity Share Capital (₹10): Blue Ltd. ₹80,000; Green Ltd. ₹1,00,000.
- As on 31.03.2013 shares of Green Ltd. held by Blue Ltd. is ₹99,000.
- Profit and Loss A/c balances as on 31.03.2013 of Blue Ltd. is ₹22,000 and Green Ltd. is ₹30,000.
- Net Profit during 2012-13 included in above were : Blue Ltd. ₹18,000; Green Ltd. ₹9,000.
- Both the companies have proposed a dividend of 10% which is yet to be recorded.
- On 01.04.2012, Blue Ltd. was formed and on the same day it acquired 4,000 shares of Green Ltd. at ₹55,000.
- On 31.07.2012, 10% dividend was received from Green Ltd. and also bonus shares at 1:4 were received. The dividend was credited to P&L A/c.
- On 31.08.2012 Blue Ltd. purchased another 3,000 shares of Green Ltd. at ₹44,000.

Analyse the profit.

Solution:

Company Status	Date of Acquisition
Holding Co.– Blue Ltd. Subsidiary Co.– Green Ltd.	Lot 1 4,000 Shares = 01.04.12 Bonus 1,000 Shares 31.07.12 Lot 2 3,000 Shares = 31.08.12

Profit for the period	No. of Shares acquired	Status
Before 01.04.12	All shares acquired i.e. 80%	Pre-acquisition
01.04.12 to 31.08.12	Shares acquired on 31.08.12 i.e. 30%	Pre-acquisition
01.04.12 to 31.08.12	Shares acquired before 31.08.12 i.e. 40%	Post acquisition
After 31.08.12	All shares acquired i.e. 80%	Post acquisition

Holding Status:

Holding Company = 80%
Minority Interest = 20%
Date of Consolidation = 31.03.2013

Analysis of Profit & Loss Account of Green Ltd.

P&L balance on 31.03.2013	₹ 30,000
Less: Proposed Dividend for FY 2012-13 (₹ 1,00,000×10)**(Note 1)**	(₹10,000)
Correct Profit	**₹ 20,000**

Balance as on 01.04.2012

Balance as on 31.03.2013	₹30,000
Less: Net Profit during 2012-13	(₹9,000)
Less: 2012-13 Dividend	(₹1,000)
Capital Profit	**₹20,000**

Profit from 01.04.12 to 31.03.13

Profit during 2012-13	**₹9,000**	
Less: Dividend for 2012-13	**(₹9,000)**	
Revenue Profit		**NIL**

Note :

1. **Dividend declared and paid by Green Ltd. is ₹10,000 (₹1,00,000 × 10%).**

Dividend for 2012 – 13

Dividend for 2012-13 ₹10,000

Out of Profit as at 01.04.2012 ₹1,000

Out of Profit for FY 12-13 ₹9,000

01.04.12 to 31.08.12 (5 Months) ₹3,750

01.09.12 to 31.03.13 (7 Months) ₹5,250

Consolidation of Balances

Particulars	**Total ₹**	**Minority Interest ₹**	**Pre- Acquisition ₹**	**Post Acquisition**
Green Ltd. (Holding 80%, Minority 20%)				**to be taken to the P&L A/c ₹**
Equity Capital	1,00,000	20,000	80,000	
Profit and Loss A/c	20,000	4,000	16,000	
Proposed Dividend	10,000	2,000	1,925 (Note 2)	6,075 (Note 3)
Minority Interest		26,000		
Total [Cr.]			97,925	
Cost of Investment [Dr.]			(99,000)	
For consolidated Balance Sheet			**1,075 Goodwill**	

Note:

2. **Pre-acquisition dividend : [80 % × ₹1,000 = ₹800] + [30% × ₹3,750] = ₹1,925.**
3. **Post acquisition dividend: [50% × 3,750 = ₹1,875] + [80% × ₹5,250] = ₹6,075.**

DIRECT TAX

(A) MINIMUM ALTERNATE TAX

Problems on computation of Minimum Alternate Tax

(1) Millennium Ltd. prepares the following Profit and Loss Account for the financial year ending on 31.03.2014:

Profit and Loss Account
for the year ending on 31.03.2014

Dr. Cr.

Particulars	Amount (₹)	Particulars	Amount (₹)
To Opening Stock	16,00,000	By Sales A/c	70,00,000
To Purchases	35,00,000	By Closing Stock A/c	7,50,000
To Salaries A/c	6,00,000	By Profit on sale of plot A/c	45,00,000
To Rent and rates A/c	2,50,000	By Dividends A/c	1,75,000
To Provision for warranties A/c	4,00,000	By Sale of Agricultural produce A/c	3,45,000
To Provision for diminution in the value of investment A/c	2,00,000	By Income of developer of SEZ from the development of SEZ A/c	2,50,000
To Provision for losses of subsidiary company A/c	1,87,500	By General Reserve A/c	1,50,000
To Collection charges of dividends A/c	25,000	By Profits from undertakings located in backward stateA/c	15,00,000
To Cultivation expenses A/c	55,000	By Profits from business of power A/c generation	30,00,000
To General Expenses A/c	1,80,000	By Long term Capital Gain A/c [Exempt under Section 10(38)]	12,50,000
To Donation to Mafia Don A/c	50,000	By Revaluation Reserve Account	1,00,000
To Penalties A/c	30,000		
To Secret Commission A/c	17,500		
To Provision for doubtful debts A/c	35,000		
To Sales Tax (outstanding)A/c	12,500		
To Deferred Tax A/c	15,000		
To Customs Duty A/c	90,000		
To Depreciation A/c	2,97,500		
To Provision for Income Tax A/c	1,50,000		
To Interest under Income Tax Act A/c	22,000		
To Provision for Corporate Dividend Tax A/c	28,000		
To Provision for Wealth Tax A/c	60,000		
To Proposed Dividend A/c	1,65,000		
To Net Profit c/d	1,10,50,000		
	1,90,20,000		1,90,20,000

Additional Information:

(i) **Depreciation as per Companies Act of ₹2,97,500 includes depreciation of ₹1,00,000 on account of revaluation of assets.**

(ii) **Depreciation as per Income Tax Act is ₹7,50,000.**

(iii) **Plot of land was purchased on 01.01.1991 for ₹35,00,000 and is sold for ₹1,80,00,000 on 21.01.2014. The entire capital gains have been invested in the units referred to in Section 54EC.**

(iv) **The plot of land was revalued by the company in previous year 2013-14 by ₹1 crore and therefore appeared in the books at ₹1,35,00,000. ₹1 crore was debited to the plot account and credited to Revaluation Reserve. The company in previous year 2013-14, debited the Revaluation Reserve by ₹1 crore and credited the said sum to General Reserve.**

(v) **Deduction under Section 80IA is 100% for power generation.**

(vi) **Deduction under section 80IB is 30% for the undertaking in backward areas.**

(vii) **Customs duty is not paid till the due date of filing return.**

Solution:

Computation of total income of Millennium Ltd.
for the Assessment Year 2014-15
(as per the normal provisions of the Income Tax Act, 1961)

Particulars	Amount (₹)	Amount (₹)
INCOME UNDER THE HEAD "PROFITS AND GAINS OF BUSINESS OR PROFESSION"		
Net Profit as per Profit and Loss A/c		1,10,50,000
Add: Expenses Disallowed		
(i) Provision for warranties **[NOTE 1]**	NIL	
(ii) Provision for diminution in the value of investment	2,00,000	
(iii) Provision for losses of subsidiary company	1,87,500	
(iv) Collection charges of dividends	25,000	
(v) Cultivation expenses	55,000	
(vi) Donation to Mafia Don	50,000	
(vii) Penalties	30,000	
(viii) Secret Commission	17,500	
(ix) Provision for doubtful debts	35,000	
(x) Sales Tax (outstanding)	12,500	
(xi) Deferred Tax	15,000	
(xii) Customs Duty	90,000	
(xiii) Depreciation as per books	2,97,500	
(xiv) Provision for Income Tax	1,50,000	
(xv) Interest under Income Tax Act	22,000	
(xvi) Provision for Corporate Dividend Tax	28,000	
(xvii) Provision for Wealth Tax	60,000	
(xviii) Proposed Dividend	1,65,000	14,40,000
		1,24,90,000
Less:		
(i) Profit on sale of plot	45,00,000	
(ii) Dividends exempt under section 10(34)	1,75,000	
(iii) Sale of Agricultural produce	3,45,000	
(iv) Withdrawal from General Reserve	1,50,000	
(v) Transfer from Revaluation Reserve Account	1,00,000	
(vi) Long term Capital Gain exempt under Section 10(38)	12,50,000	
(xix) Depreciation as per Income Tax Act, 1961	7,50,000	72,70,000
PROFITS AND GAINS OF BUSINESS OR PROFESSION		52,20,000
INCOME UNDER THE HEAD "CAPITAL		

GAINS"		
Long term Capital Gain	12,50,000	
Less: Exempt under Section 10(38)	12,50,000	NIL
Sale Price	1,80,00,000	
Less: Indexed Cost of Acquisition [35,00,000 x 939/199]	1,65,15,075	
LTCG	14,84,925	
Less: Exempt u/S 54EC	14,84,925	NIL
INCOME FROM OTHER SOURCES		
Dividend	1,75,000	
Less: Exempt u/S 10(34)	1,75,000	NIL
GROSS TOTAL INCOME		52,20,000
Less: Deduction under Chapter VI-A		
Section 80-IA	30,00,000	
Section 80-IB	4,50,000	
Section 80-IAB (Developer of SEZ)	2,50,000	37,00,000
NET TAXABLE INCOME		**15,20,000**
(A) Tax Liability @ 30.90%		**4,69,680**

Computation of Book Profit under Section 115JB of the Income Tax Act, 1961

Particulars	Amount (₹)	Amount (₹)
Net Profit as per Profit and Loss Account		1,10,50,000
Add: Expenses Disallowed		
(i) Provision for warranties**[NOTE 1]**	NIL	
(ii) Provision for diminution in the value of investment	2,00,000	
(iii) Provision for losses of subsidiary company	1,87,500	
(iv) Collection charges of dividends	25,000	
(v) Cultivation expenses	55,000	
(vi) Provision for doubtful debts	35,000	
(vii) Deferred Tax	15,000	
(viii) Depreciation as per books	2,97,500	
(ix) Provision for Income Tax	1,50,000	
(x) Interest under Income Tax Act	22,000	
(xi) Amount standing in the Revaluation Reserve Account, not credited to the P/L Account	1,00,00,000	
(xii) Provision for Corporate Dividend Tax	28,000	
(xiii) Proposed Dividend	1,65,000	1,11,80,000
		2,22,30,000
Less:		
(i) Dividends exempt under section 10(34)	1,75,000	
(ii) Sale of Agricultural produce	3,45,000	
(iii) Withdrawal from General Reserve	1,50,000	
(iv) Transfer from Revaluation Reserve Account	1,00,000	
(v) Depreciation excluding depreciation on revalued assets	1,97,500	9,67,500
BOOK PROFITS AS PER SECTION 115JB		**2,12,62,500**
(B) Tax as per Section 115JB (rounded off)		**40,51,570**
(C) MAT Credit available [(B)- (A)]		**35,81,890**

NOTE:

1. It is assumed that provision for warranties is made on scientific basis.

(B) ALTERNATE MINIMUM TAX

Problems on computation of Alternate Minimum Tax

(2) Erudite LLP submits the following information for the Assessment Year 2014-15:

Sl. No.	Particulars	Amount (₹)
(i)	**Profit as per Profit and Loss Account**	**4,30,000**
(ii)	**Depreciation as per books of account**	**10,000**
(iii)	**Depreciation as per Income Tax Act (Current Year)**	**20,000**
(iv)	**Brought forward depreciation**	**1,75,000**
(v)	**Brought forward Loss**	**6,500**
(vi)	**Expenditure not allowed under the provisions of the Income Tax Act, 1961 (debited in the P & L A/c)**	**15,000**
(vii)	**Interest paid to the partners debited in the P&L A/c**	
	a) Partner A (24%)	**5,000**
	b) Partner B (24%)	**8,000**
(viii)	**Remuneration paid to the partners debited in the Profit and Loss Account**	
	a) Partner A	**70,000**
	b) Partner B	**55,000**
(ix)	**Erudite LLP is eligible to claim deduction under Section 35AD @ 100%**	**2,50,000**
(x)	**Contribution to the Electoral Trust eligible for deduction under Section 80GGC of the Income Tax Act, 1961**	**5,000**

The partners Medha and Pragya share profits and losses equally. Compute the tax liability of the Limited Liability Partnership.

Solution:

Computation of Book Profit under Section 40(b) of the Income Tax Act, 1961

Particulars	Amount (₹)
Net Profit as per Profit and Loss Account	**4,30,000**
Add: Depreciation as per books of account	10,000
Add: Expenditure not allowed under the provisions of the Income Tax Act, 1961	15,000
Add: Interest to partners disallowed under Section 40(b)	6,500
Add: Remuneration to partners	1,25,000
	5,86,500
Less: Deduction under Section 35AD	2,50,000
Less: Current year Depreciation as per the Income Tax Act, 1961	20,000
	3,16,500
Less: Brought forward Depreciation	1,75,000
BOOK PROFITS	**1,41,500**

Therefore, allowable remuneration to the partners of the Limited Liability Partnership, as per section 40(b) of the Income Tax act, 1961 is ₹ 1,27,350. Since, remuneration paid to the partners is ₹1,25,000, the amount paid as remuneration is allowed as deduction under Section 40(b).

Computation of the Total Income of the LLP

Particulars	Amount (₹)
Net Profit as per Profit and Loss Account	**4,30,000**
Add: Depreciation as per books of account	10,000
Add: Expenditure not allowed under the provisions of the Income Tax Act, 1961	15,000
Add: Interest to partners disallowed under Section 40(b)	6,500
	4,61,500
Less: Deduction under Section 35AD	2,50,000
Less: Current year Depreciation as per the Income Tax Act, 1961	20,000
	1,91,500
Less: Brought forward Depreciation	1,75,000
Less: Brought Forward Losses	6,500
TOTAL INCOME	**10,000**
Less: Deduction under Section 80GGC	5,000
TOTAL TAXABLE INCOME	**5,000**

Computation of the Adjusted Total Income

Particulars	Amount (₹)
TOTAL TAXABLE INCOME	5,000
Add: Deduction under Section 80GGC	5,000
ADJUSTED TOTAL INCOME	**10,000**

1. Tax Liability under the normal provisions of the Income Tax Act, 1961 @ 30.90% on ₹5,000 = ₹1,545

2. Tax Liability under the Alternate Minimum Tax = 19.055% of ₹10,000 = ₹1,906
3. Tax payable = ₹1,906

(1) SET-OFF AND CARRY FORWARD OF LOSSES

Problems of set-off and carry forward of losses

(3) From the following data, compute the total income chargeable to tax and ascertain the tax thereon of Pyramid Enterprises Ltd., a domestic company, for the Assessment Year 2014-15:

Particulars	Amount (₹)
Business Loss	25,00,000
Income from House Property	22,50,000
Income from other sources	50,000
Short term capital gain	1,50,000
Long Term Capital Gain	5,00,000

Solution:

Section 71(2) of the Income Tax Act, 1961 provides the manner of set-off of business loss. In the given situation, the assessee can avail of the following two options:

OPTION I:

Particulars	Amount (₹)
Loss under the head "Profits and Gains of Business or Profession"	25,00,000
Less: Income from House Property	22,50,000
	2,50,000
Less: Income from other sources	50,000
	2,00,000
Less: Short term capital gain	1,50,000
	50,000
Less: Long Term Capital Gain	5,00,000
Long Term Capital Gain	**4,50,000**
TOTAL INCOME	**4,50,000**
Tax on total income @ 20.60%	**92,700**

OPTION II:

Particulars	Amount (₹)
Loss under the head "Profits and Gains of Business or Profession"	25,00,000
Less: Short term capital gain	1,50,000
	23,50,000
Less: Long Term Capital Gain	5,00,000
	18,50,000
Less: Income from other sources	50,000
	18,00,000
Less: Income from House Property	22,50,000
Income from House Property	**4,50,000**
TOTAL INCOME	**4,50,000**
Tax on total income @ 30.90%	**1,39,050**

If Pyramid Enterprises Ltd., avails OPTION-I, the tax liability of Pyramid Enterprises Ltd. shall be lower. Hence, Pyramid Enterprises Ltd., should avail OPTION-I. In this case, the tax liability shall be ₹92,700.

(4) Mr. Jayant Singh, a resident individual, submits the following information for the relevant Assessment Year 2014-15 :

Particulars	Profit (₹)	Loss (₹)
Income under the head "Salaries"	**2,84,000**	
Income from House Property		
House A	**2,30,000**	
House B		**2,34,000**
House C		**2,42,000**
Profits and Gains of Business or Profession		
Business A	**2,70,000**	
Business B		**2,36,000**
Business C (Speculative)	**2,22,000**	
Business D (Speculative)		**2,46,000**
Capital Gains:		
Short-term capital gains	**2,12,000**	
Short-term capital loss		**2,56,000**
Long term capital gain on sale of building	**25,000**	
Income from other sources:		
Income from card games	**2,16,000**	
Loss from card games		**2,14,020**
Loss on maintenance of race horses		**2,12,000**
Interest on securities	**2,08,000**	
Unabsorbed business losses pertaining to the previous year 2012-13 of Business A		**19,000**
Unabsorbed Depreciation pertaining to the previous year 2011-12, of Business B.		**15,000**

Determine the gross total income of Mr. Jayant Singh for the Assessment Year 2014-15.

Solution:

Computation of Gross Total Income

Assessee: Mr. Jayant Singh

Assessment Year: 2014-15 Previous Year: 2013-14

Particulars	Amount (₹)	Amount (₹)
Income under the head "Salaries"		2,84,000
Income from House Property [NOTE 2]		
House A	2,30,000	
House B	(2,34,000)	
House C	(2,42,000)	(2,46,000)
Profits and Gains of Business or Profession		
Business A	2,70,000	
Business B	(2,36,000)	
Profits from non-speculative business	34,000	
Less: Unabsorbed Business Losses of Business A	(19,000)	NIL
Less: Unabsorbed depreciation	(15,000)	
Business C (Speculative)	2,22,000	
Business D (Speculative)	(2,46,000)	
Loss from speculative business to be carried forward	**(24,000)**	
Capital Gains:		
Short-term capital gains	2,12,000	
Short-term capital loss	(2,56,000)	
Short-term capital loss Long term capital gain on sale of building	(44,000) 25,000	
Short-term Capital Loss to be carried Forward	**(19,000)**	NIL
Income from other sources:		
Income from card games	2,16,000	
Loss from card games **[NOTE 1]**	(2,14,020)	
Loss on maintenance of race horses	(2,12,000)	
Interest on securities	2,08,000	4,24,000
Loss on maintenance of race horses to be carried forward	(2,12,000)	
GROSS TOTAL INCOME		4,62,000

LOSSES TO BE CARRIED FORWARD:

1. Loss from speculative business to be carried forward - ₹24,000.
2. Short-term Capital Loss to be carried Forward - ₹19,000
3. Loss on maintenance of race horses to be carried forward- ₹2,12,000.

NOTE:

1. Loss from card games cannot be set off against income from card games (Section 58 of IT Act, 1961).
2. Loss from house property has been set off against income under the head "Salaries".
3. Figures in brackets represent losses incurred.

ASSESSMENT PROCEDURE

SECTION 139: COMPULSORY FILING OF RETURN OF INCOME

Entities statutorily required to file return of income:

(i) Company
(ii) Firm
(iii) Any person other than company or firm
(iv) A resident and ordinarily resident person, who has any asset(including any financial interest in any entity) located outside India or signing authority in any account located outside India
(v) Charitable and Religious Trusts or Institutions
(vi) Political Parties
(vii) Hospitals, medical institutions, schools, colleges and other specified institutions
(viii) Universities, college and Institution referred to in Section 35(1)(ii) and 35(1)(iii)

Time Limit for filing return of income:

(i) Any assessee who is required to furnish report of transfer pricing under Section 92E of the Income tax Act, 1961	30th November of the Assessment Year
(ii) Company **(iii)** Audit requirement under any Statute **(iv)** Working partner of firm whose accounts are audited	30th September of the Assessment Year
(v) Others	31st July of the Assessment Year

SECTION 139(3): LOSS RETURN

Loss under the head Profits and Gains of Business or Profession, or Capital Gains cannot be carried forward, if loss return has not been filed within the time limit stipulated under Section 139(1).

SECTION 139(4): BELATED RETURN

(i) Belated Return can be filed, if assesse has not furnished the return of income within the time limit prescribed under Section 139(1), or the time allowed under a notice under Section 142(1).
(ii) **Time Limit:** Any time before the end of the relevant Assessment Year, or before the completion of assessment, whichever is earlier.

SECTION 139(5): REVISED RETURN

(i) Revised Return can be filed, in lieu of return filed under Section 139(1), or under a notice under Section 142(1).
(ii) **Time Limit:** Any time before the end of the relevant Assessment Year, or before the completion of assessment, whichever is earlier.

SECTION 140A: SELF ASSESSMENT

An assessee shall be liable to pay tax (on the basis of furnished return), along with interest payable under any provision of this Act, as reduced by taxes already paid by the assessee.

NOTICE UNDER SECTION 142(1): INQUIRY BEFORE ASSESSMENT

(i) The Assessing Officer may issue a notice, requiring the assessee to furnish a return of income, within the time specified in the notice, if the assesse has not filed return within the time specified under Section 139(1).

(ii) **Time Limit:** Notice under Section 142(1) can be filed, even after the end of the relevant Assessment Year.

INTIMATION UNDER SECTION 143(1)

(i) Intimation is sent to the assessee if, any tax or interest is found due to be paid by the assessee (after all stipulated adjustments), or any refund is due to the assessee.
(ii) **Time Limit:** Intimation shall not be sent after the expiry of one year from the end of the financial year in which the return is made

REGULAR ASSESSMENT UNDER SECTION 143(3)

(i) The Assessing Officer may issue a notice, requiring the assessee to attend his office, or furnish any evidence in support of the filed return, with a view to ensure that the assessee has not understated his income, or computed excessive losses or under-paid tax in any manner.
(ii) **Time Limit:** No notice shall be served after the expiry of twelve months from the end of the month in which the return is filed.

BEST JUDGEMENT ASSESSMENT UNDER SECTION 144

Best Judgement Assessment is done, if the assessee fails to file return under Section 139(1) or under a notice under Section 142(1), or fails to comply direction under section 142(2A), or fails to comply with the terms of the notice under Section 143(2).

INCOME ESCAPING ASSESSMENT UNDER SECTION 147

Assessment under this Section is done, if the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment.

(5) Mr. Mrinal Sharma filed the return of Assessment Year 2008-09 declaring the income of ₹3,25,000. He had been assessed under Section 143(3) and Assessing Officer made following additions:

(i) **Unexplained cash credit for want of confirmation from creditors ₹2,00,000.**
(ii) **Disallowance in respect of travelling expenditure for tour to Chennai ₹46,000 for effecting sale there as, Mr. Mrinal Sharma failed to establish that expenditure had been incurred for the purpose of business.**

At a later stage he has been served with a notice under section 148 for income escaping assessment in respect of Assessment Year 2008-09. During the course of reassessment proceeding, A.O. sought to add unaccounted sales of ₹4,00,000 made at Chennai.

During the course of hearing the assessee produced confirmation from creditors and requested to delete the addition for unexplained cash credit of ₹2,00,000 and to allow deduction of travelling expenditure ₹46,000. Discuss the validity of the contention raised by the assessee.

Answer:

In case of Sun Engineering Pvt. Ltd. (Supreme Court), it was held as under:

(i) On Re-assessment, original assessment remains & is not wiped off.
(ii) Matters lost in original assessment, which have since acquired finality (i.e. no appeal etc. is filed) can't be claimed in Re-assessment proceedings.
(iii) Expenses not claimed in original assessment cannot be claimed in re-assessment proceedings. However, expenses related to income which has escaped assessment can be claimed.
(iv) Under Section 147 income cannot be assessed below original assessment or returned income (if no assessment is made earlier).

Therefore, the assessee cannot produce confirmation from the creditors in the course of proceedings under section 147, since he has lost the matter of unexplained cash credits in the original assessment proceedings and, he has not raised the said matter in an appeal. Similarly, under section 147 he cannot claim the travelling expenditure since the same was disallowed in the original assessment and has become final.

(6) Tarak Sharma, an individual, filed his return of income for assessment year 2014-15 on 15.6.2013 declaring a total income of ₹1,20,000. He later discovered that he had not claimed a particular deduction amounting to ₹2,10,000 while computing his business income in the said return. He filed a revised return on 30.1.2014 declaring a total loss of ₹90,000. The Assessing officer proposes to disallow the claim of Tarak Sharma for carry forward of the business loss amounting to ₹90,000 for the reason that the revised return declaring loss for the first time was filed beyond the time prescribed under section 139(3). Examine the validity of the proposed action of the Assessing Officer.

Answer:

This issue is covered by the case of Dhampur Sugar Mills Limited. In this case it was held that the revised return substitutes the original return from the date the original return was filed. Once a revised return is filed, the original return is deemed to have been withdrawn and the revised return is deemed to have been filed on the date the original return was filed. The revised return steps into the shoes of the original return.

As per the judgment in the case of Dhampur Sugar Mills Ltd., revised return under section 139(5) substitutes the original return from the date the original return was filed. Hence, the revised return filed on 30.1.2014 substitutes the original return filed on 15.06.2013 and is deemed to be filed on 15.06.2013. Thereby, as per the provisions of section 80 read with section 139(3), the loss of ₹90,000 shall be carried forward. Assessing Officer was not justified in declining the claim of Tara Sharma, for carry forward of the business loss.