

Set Off and Carry Forward of Losses



◆ **This chapter is divided into two parts:**

Part A – Set off Losses i.e. Set off of Current Year Losses.

Part – B – Carry Forward & Set off Losses i.e. in the Next Assessment Year

- ◆ **Further Part A is divided into two Parts:**
 - **Set off within same head of Income in the Current Assessment Year.**
 - **Set off against other head of Income in the Current Assessment Year.**
- ◆ **Therefore, Sequence of the treatment of the Losses is as under:**
- **Set off the Losses of one source of Income with another source of income within same head in the current Assessment Year i.e. Intra-Head Adjustments. (Section 70)**

- **Set off the Losses of one head of Income with other head of income in the current Assessment Year. For Example: Losses of Business head set of against Capital gains Income i.e. Inter-Head Adjustments. (Section 71)**
- **> After setting if any losses still remain then it will be carried forward to next Assessment Year & set off in that Assessment Year. (Section 71B to Section 80)**

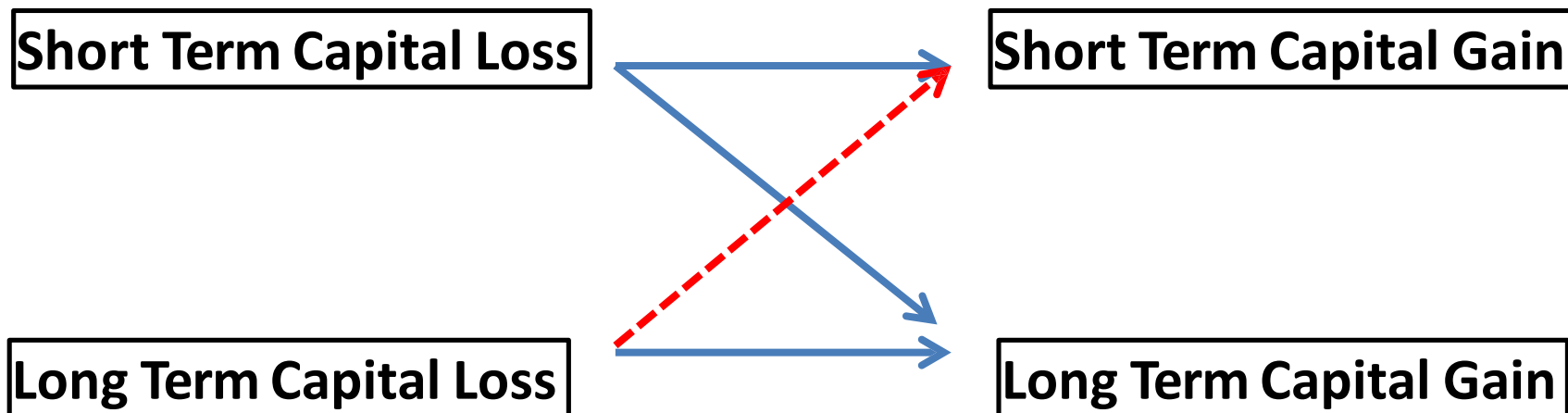
Section 70 of the Income Tax Act I.e. Intra-Head Adjustments(Same head)

70(1)

One source loss – another source gain(except Capital gain)

Impermissible inter-source set-off:

70(2) and 70(3)



**Losses from
Speculation business**

**Losses from owning &
Maintenance Race
Horses**

**Losses from Specified
Business U/s 35AD**

**Normal Business
Income**

Important Notes:

- i) Losses of Short-Term Capital Assets can be adjusted against both LTCG & STCG.**
- ii) Losses from Speculation Business, 35AD Business, Owning & Maintenance race horses can be adjust against income from same nature.**
- iii) Further, Normal Business Losses can be adjusted against: Income from speculation business Income From 35AD Business Income from owning & Maintaining Race Horses.**
- iv) Losses of Self- Occupied House property can be adjusted against Income from Let-Out Property.**
- v) Similarly, Losses from one let out property can be set off against Income from other let out Property.**

Section 71 of the Income Tax Act I.e. Inter-Head Adjustments(One head – Another Head)

71(1)

Any other head Loss – Any other head Income

<https://shorturl.at/suSY3> (S.p.a)

71(2)

Any other head Loss other than capital gain plus capital gain – Any other head Income including Capital gain (S.p.a)

Exceptions

71(2A)

Loss from PGBP



Income from Salary

71(3)

Loss from Capital Gain



Income from Other head

71(3A)

**Loss from House
Property**



**Income from Other head
Max 2,00,000**

Section 71B - 80 - Carry-Forward & Set-off of Losses in the next Assessment Years

71(B)

Loss from House Property

No other Income

Whole Loss is Carried Forward to Following Assessment year

Loss from House Property

Has other Income

Loss not set off is Carried Forward to Following Assessment year (s.p.a)

*** No Loss can be carried forward more than 8 years from first computed**

72(1)(i)

Loss from PGBP

No other Income

Not Speculation Loss

Whole Loss is Carried Forward to Following Assessment year

72(1)(ii)

Loss from PGBP

Has other Income

Loss not set off is Carried Forward to Following Assessment year (s.p.a)

72(2)

<https://shorturl.at/hkCGK>

72(3)

*** No Loss can be carried forward more than 8 years from first computed**

Provided in case of 33B

72(1)

Loss from PGBP as per 33B

Such Business is

- Re-established
- Re-constructed
- Re-viewed

At any time before expiry of 3 years

Loss attributes to such Business

has Income in Other heads

No Income

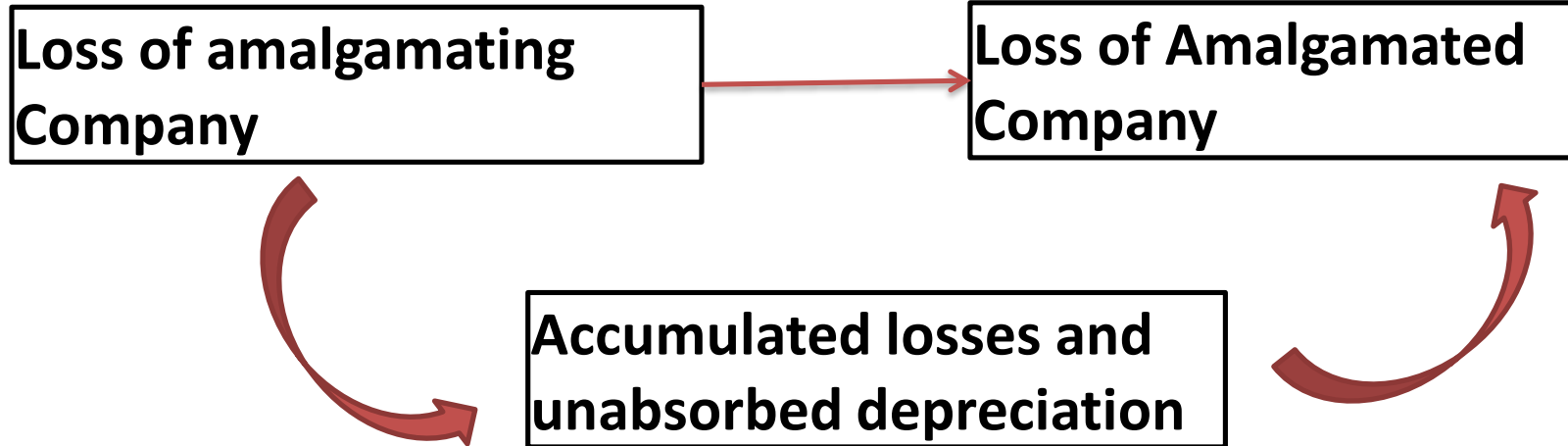
Loss not set off is Carried Forward to Following Assessment year

Whole loss is Carried Forward to Following Assessment year

*** No Loss can be carried forward more than 7 years from 33B**

Section 72A- Carry Forward and Set off of Accumulated losses and unabsorbed depreciation in amalgamation or merger

72(A)(1)



72(A)(2)

Carry Forward and set off not allowed unless

a) Amalgamating Company

- Engaged in Business 3 or more years
- Has held -3/4 of book value of assets-prior to **two** years of DOA

b) Amalgamated Company

- **Holds -3/4 of book value of assets of amalgamating company- minimum **five** years of DOA**
- **Continues business for minimum period of **five** years from the DOA**
- **Amalgamation is for genuine purpose**

72(A)(3)

Incase not complied than taxable in the hands of amalgamated company

72(A)(4)

Incase of Demerger

- **Relatable**
- **Not directly relatable**

72(A)(5)

Incase of Demerger Central government – conditions- genuine Demerger

72(A)(6) and 72(A)(6A)

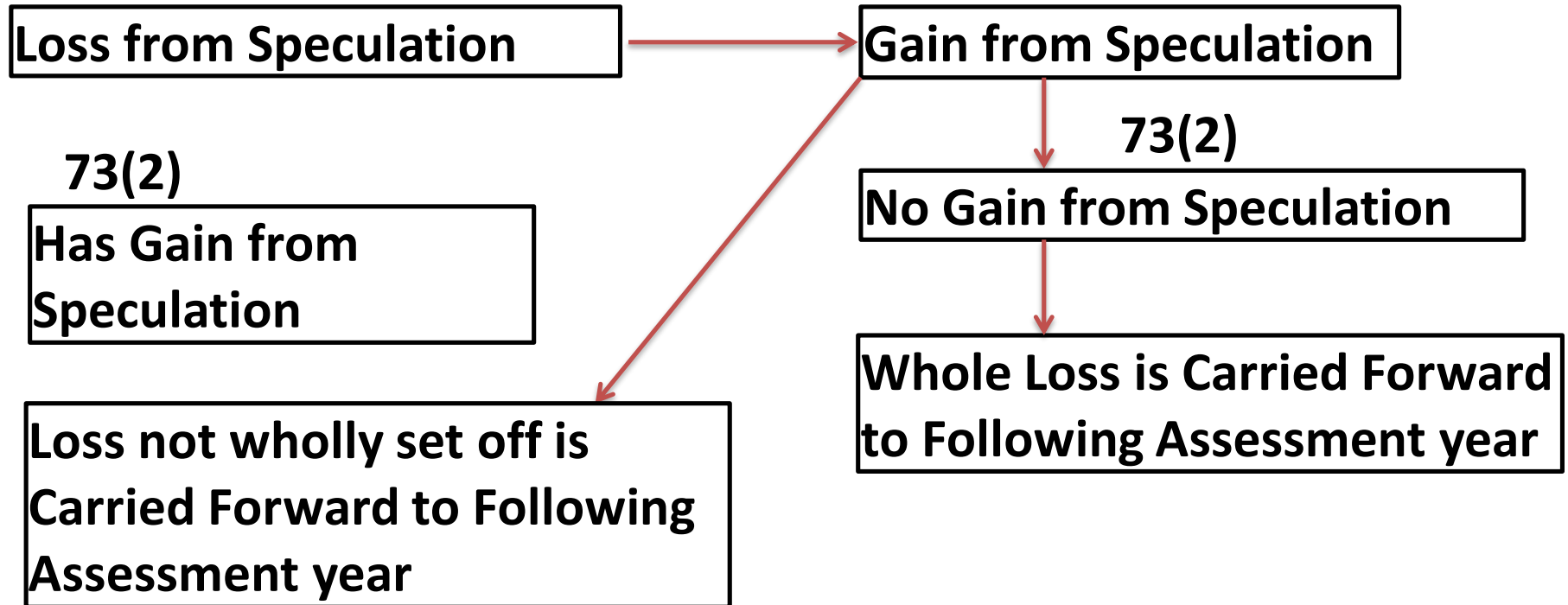
Where there has been reorganization of business

- **Firm → Company (Section 47 (xiii)**
- **Proprietary → Company (Section 47(xiv)**
- **Private /unlisted company - LLP(Section 47(xiii b)**
- **Accumulated loss and unabsorbed depreciation shall be loss of succeeding company**

Incase not complied than taxable in the hands of succeeding

73- Set off and Carry forward of Speculation Business Loss

73(1)



73(3)

Section 72(2) shall also apply to speculation business

<https://shorturl.at/fyAJZ> - Explanation to 73

73(4)

* No Loss can be carried forward more than 4 years

73A- Set off and Carry forward -Specified Business Loss – 35AD

73A(1)

Loss from Specified business

73A(2)

Has income from 35AD

Income from Specified business

73A(2)

No Income from 35AD

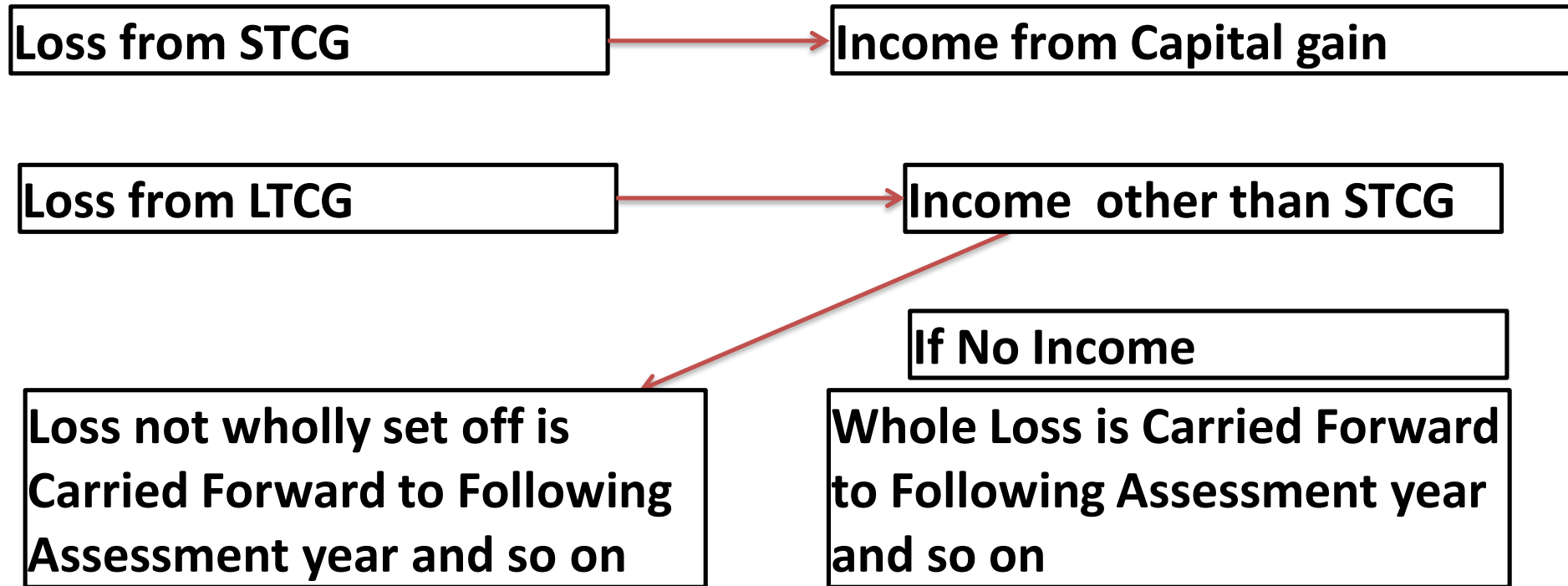
Whole Loss is Carried Forward to Following Assessment year and so on

Loss not wholly set off is Carried Forward to Following Assessment year and so on

* No explanation for carry forward

74- Set off and Carry forward – Capital gains

74(1)



74(2)

*** No Loss can be carried forward more than 8 years immediately succeeding for which loss first computed**

74A- Set off and Carry forward – Specified Other Sources

74A(3)

Loss from race horses

Income from race horses

If No Income

Loss not wholly set off is
Carried Forward to Following
Assessment year and so on

Whole Loss is Carried Forward
to Following Assessment year
and so on

*** No Loss can be carried forward more than 4 Assessment years**

78- Set off and Carry forward – Change in Constitution of Firm or Succession

78(1)

Change due to retirement/deceased partner

Proportionate loss not carried forward

78(2)

Succeeded by otherwise than inheritance

No Carry Forward

Only the person incurred loss can carry forward

79- Set off and Carry forward – in case of certain companies

79(1)

Incase of Share holding pattern

Private company not a company where public substantially interested

Change in beneficial voting power more than 51% of voting power

Loss can not be carried forward

Incase of Start Up

Same share holding pattern continued

Carry forward allowed

79(2) - Exceptions

- **Death of Share holder/ Transfer by way of gift**
- **Incase of Merger or amalgamation of Indian company with Foreign company**
- **Resolution plan as per approved IBC 2016**
- **Incase of section 241, 242 of companies act, 2013**

80 – Submission of Return of Losses

If Loss from PGBP and CG

**Return to be filed within
time limit as per 139(1)**



Not carried forward for belated return

- **Business loss Speculative or otherwise**
- **Capital Loss**
- **Loss from race horses**

Current Year Set off

Particulars	Income from Salary	Income from HP	Income from LTCG	Income from STCG	Income from Business	Income from other Sources
Loss from HP	Yes(S.p.a)	Yes	Yes(S.p.a)	Yes(S.p.a)	Yes(S.p.a)	Yes(S.p.a)
Loss from STCG	No	No	Yes	Yes	No	No
Loss from LTCG	No	No	Yes	No	No	No
Loss from Business	No	Yes	Yes	Yes	Yes	Yes
Loss from Speculation	Income from Speculative Business				Speculative Income	No
Loss from Specified Business	Income from Specified Business				Specified Income	No
Loss from race Horses	Income from Race horses					

Carry forward Set off

Particulars	Income from Salary	Income from HP	Income from LTCG	Income from STCG	Income from Business	Income from other Sources
Loss from HP	No	Yes	No	No	No	No
Loss from STCG	No	No	No	Yes	No	No
Loss from LTCG	No	No	Yes	No	No	No
Loss from Business	No	No	No	No	Yes	No
Loss from Speculation	Income from Speculative Business				No	No
Loss from Specified Business	Income from Specified Business				No	No
Loss from race Horses	Income from Race horses					

ILLUSTRATION 1

Mr. Kamal (aged 35 years) submits the following particulars pertaining to the A.Y.2022-23:

Particulars	₹
Income from salary (computed)	4,20,000
Loss from self-occupied property	(-)72,000
Loss from let-out property	(-) 1,50,000
Business loss	(-)1,20,000
Bank interest (FD) received	85,000

Compute the total income of Mr. Kamal for the A.Y.2022-23, assuming that he does not opt for the provisions of section 115BAC.

Computation of total income of Mr. Kamal for the A.Y.2022-23

Particulars	Amount (₹)	Amount (₹)
Income from salary	4,20,000	
Less: Loss from house property of ₹ 2,22,000 to be restricted to ₹ 2 lakhs by virtue of section 71(3A)	(-) 2,00,000	2,20,000
Balance loss of ₹ 22,000 from house property to be carried forward to next assessment year		
Income from other sources (interest on fixed deposit with bank)	85,000	
Business loss of ₹ 1,20,000 set-off to the extent of ₹ 85,000	(-) 85,000	-
(Business loss of ₹ 35,000 to be carried forward for set-off against business income of the next assessment year)		
Gross total income [See Note below]		2,20,000
Less: Deduction under Chapter VI-A		Nil
Total income		2,20,000

ILLUSTRATION 2

Mr. Vikas, a resident individual, furnishes the following particulars for the P.Y.2021-22:

Particulars	₹
Income from salary (computed)	50,000
Income from house property	(24,000)
Income from business – non-speculative	(24,000)
Income from speculative business	(6,000)
Short-term capital losses	25,000
Long-term capital gains taxable u/s 112	21,000

What is the total income chargeable to tax for the A.Y.2022-23, assuming that he does not opt for the provisions of section 115BAC?

SOLUTION

Total income of Mr. Vikas for the A.Y. 2022-23

Particulars	Amount (₹)	Amount (₹)
Income from salaries	50,000	
Income from house property	(24,000)	26,000
Profits and gains of business and profession		
Business loss to be carried forward [Note (i)]	(24,000)	
Speculative loss to be carried forward [Note (ii)]	(6,000)	
Capital Gains		
Long term capital gain taxable u/s 112	21,000	
Short term capital loss of ₹ 25,000 set-off against long-term capital gains to the extent of ₹ 21,000 [Note (iii)]	(25,000)	
Short term capital loss to be carried forward [Note (iii)]	(4,000)	-
Taxable income		26,000

ILLUSTRATION 3

During the P.Y. 2021-22, Mr. Chetan has the following income and the brought forward losses:

Particulars	₹
Short term capital gains on sale of shares	1,75,000
Brought forward Long-term capital loss of A.Y.2020-21	(96,000)
Short term capital loss of A.Y.2021-22	(42,000)
Long term capital gain	85,000

What is the capital gain taxable in the hands of Mr. Chetan for the A.Y.2022-23?

SOLUTION

Taxable capital gains of Mr. Chetan for the A.Y. 2022-23

Particulars	₹	₹
Short term capital gains on sale of shares	1,75,000	
Less: Brought forward short-term capital loss of the A.Y.2021-22	(42,000)	1,33,000
Long term capital gain	85,000	
Less: Brought forward long-term capital loss of A.Y.2020-21 of ₹ 96,000 set-off to the extent of ₹ 85,000 [See Note below]	(85,000)	Nil
Taxable short-term capital gains		1,33,000

Note: Long-term capital loss cannot be set off against short-term capital gain. Hence, the unadjusted long term capital loss of A.Y.2020-21 of ₹ 11,000 (i.e., ₹ 96,000 – ₹ 85,000) has to be carried forward to the next year to be set-off against long-term capital gains of that year.

ILLUSTRATION 4

Mr. Dinesh has the following income for the P.Y.2021-22-

Particulars	₹
Income from the activity of owning and maintaining the race horses	75,000
Income from textile business	95,000
Brought forward textile business loss (relating to A.Y. 2021-22)	(50,000)
Brought forward loss from the activity of owning and maintaining the race horses (relating to A.Y.2019-20)	(96,000)

What is the total income in the hands of Mr. Dinesh for the A.Y. 2022-23?

SOLUTION

Total income of Mr. Dinesh for the A.Y. 2022-23

Particulars	₹	₹
Income from the activity of owning and maintaining race horses	75,000	
Less: Brought forward loss of ₹ 96,000 from the activity of owning and maintaining race horses set-off to the extent of ₹ 75,000	75,000	
Balance loss of ₹ 21,000 (₹ 96,000 – ₹ 75,000) from the activity of owning and maintaining race horses to be carried forward to A.Y.2023-24	Nil	
Income from textile business	95,000	
Less: Brought forward business loss from textile business	50,000	45,000
Total income		45,000