
CASE LAWS

When Loss occurs?

In the case of an actual loss, it arises at the point of sale. In the case of an anticipatory loss it arises on the occasion of the valuation of the unsold stock at the close of the year of accounts. Both are permissible claims. (*Indo-commercial Bank Ltd. vs CIT, 44 ITR 22 (Madras) (1962)*)

Where the assessee company, having diverse business activities, also owned a ice factory (taken as a separate business) at Lahore which is sold in September, 1948 and the purchaser took over the factory on October 1, 1948 and the price was finally settled in December, 1949, resulting in loss, it was held that the loss did not accrue or arise to the assessee until December, 1949 when the price was finally settled [*Karam Chand Thapar & Bros Pr. Ltd. vs CIT (1969) 74 ITR 26 (SC)*]

Other Issues

Assessee has a statutory right and the assessing officer has a corresponding duty to set off the loss carried forward from one year to the following year. If a carry forward is, later, allowed in appellate or revisional proceedings or as a result of a reference and by that time the assessment for the year or years is completed, the officer is duty bound to rectify the assessments by allowing proper set off {*Kanaka Films Pr. Ltd. vs. ITO (1989) 177 ITR 88, 94 (Mad)*}

Loss incurred in speculative business in banned items cannot be carried forward to the next year- {*CIT vs. Kurji Jinabhai Kotecha [1977] 107 ITR 101 (SC)*}

Where income from a particular source is exempt from tax loss from such source cannot be set off against income chargeable to tax. For the purpose of sec 71, loss of profits must be loss of taxable profits {*Ramjilal Rais vs. CIT [1965] 58 ITR 181 (All.)*}

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