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Set off & Carry Forward of Loss

Extra provisions for detailed and comprehensive study

190.1 Speculation business

Deemed speculation business: Where any part of the business of a **company** consists of **purchase and sale of shares** of other companies, such company is *deemed* to be carrying on a speculation business to the **extent** to which the business consists of the purchase and sale of such shares. However, this deeming provision **does not apply** to the following:

1. A company whose gross total income consists **mainly** of income which is chargeable under the heads IHP, Capital gains and IFOS, or
2. A company whose **principal** business is the business of trading in shares or banking or the granting of loans and advances.

The aforesaid deeming provision does not apply to a non-company assessee. It applies only to the purchase and sale of shares. It applies even when the transactions are not speculative in nature (i.e., the contracts are settled by actual delivery or transfer of shares).

The effect of exception #1 is to see that the deeming provision targets companies who are mainly engaged in trading of shares and that other companies are excluded.

The effect of exception #2 is to see that companies where purchase and sale of shares is an essential part of the business are not hit by this provision.

ILLUS 190.8 – PQR (P) Ltd is engaged in the principal business of software development. Following are the particulars:

- | | |
|---------------------------------|-------------|
| • Profit from software business | Rs. 15 lakh |
| • Loss from trading in shares | Rs. 5 lakh |
| • Long term capital gain | Rs. 2 lakh |
| • Interest income | Rs. 1 lakh |

Compute the total income.

Gross total income of PQR (P) Ltd does not consist mainly of IHP, capital gain or IFOS. It mainly consists of business income. Its principal business is not trading in shares, banking or money lending. Thus, the company is deemed to be carrying on speculation business to the extent of trading in shares. Loss from speculation business of Rs. 5 lakh cannot be set off against any other income and it is carried forward to the next year. Total income = 15 lakh + 2 lakh + 1 lakh = 18 lakh.

