

WHY LOSS RETURN TO BE FILED ON OR BEFORE DUE DATE UNDER INCOME TAX ACT,1961

INTRODUCTION :

The **Provisions of filing of Income Tax Returns in case of Loss** are covered **u/s -139(3) along with Section-80** of the Income Tax Act,1961 which provides that **if a Taxpayer has incurred Business Loss or Speculation Loss or Specified Business u/s – 35AD Loss or Capital Loss or Owning/Maintaining Race-Horses Loss then such Loss cannot be carried forward if Return is filed after Due date specified u/s – 139(1).**

PROVISIONS OF LAW :

- If the **Loss is arising under head “Capital Gains” or under head “Profits and Gains of Business and Profession”, then Filing of Return of Loss within Due date is Compulsory in order to Carry Forward this Loss and Set-off against Future Income.**
- However, **if the Loss is arising under the head “House Property”, then it would be allowed to carry forward even if the Return is filed after Due date.**
- **IF Loss Return is submitted in response to notice u/s – 142(1), such Loss cannot be carried forward unless it is Loss of House Property. However, the Unabsorbed total Loss can be carried forward in such case.**
- However, **Loss of Current Year can not be carried forward if the Return is filed after Due date But Loss of earlier years can be carried forward if the Loss Return of that years was filed within Due date and such Loss has been Assessed. In other words late filing of Return on or before due date of filing of Return u/s-139(1), does not seize the right of carrying forward of loss of earlier years.**

BENEFITS OF FILING LOSS RETURN WITHIN DUE DATE :

- The **most important benefit** of filing **Loss Return within Due date** is that the **Loss can be carried forward** to the **future years** and **can be set-off against income of future years**.
- It **will reduce** the **Taxable Income** of the **future years** which will **result** to the **Reduction in the Tax Payable** in **future years**.
- Therefore, it is **strongly recommended** to **file Loss Return on or before Due date**.