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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE S.KARTHIKEYAN

TCA No. 252 of 2015

{CNR:HCMA010504972015}

AND TCA NO. 253 OF 2015

CNR:{HCMA010505022015}

The Commissioner Of Income Tax
Chennai.

..Appellant(s)

Vs

M/s Indian Overseas Bank
763 Mount Rd, Chennai.

..Respondent(s)

Appeals filed under Section 260A of the Income Tax Act, 1961 against order dated 02.04.2013 passed in ITA Nos.1803& 1815/Mds/2011 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench Chennai for assessment years 2008-09 and 2008-09.

In both TC(A)s:

For Appellant(s): Mr.D.Prabhu Mukund Arunkumar
Senior Standing Counsel

For Respondent(s): Mr.R.Vijayaraghavan
for M/s.Subbaraya Aiyar Padmanabhan

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Common Judgment

(Judgment of the Court was delivered by Dr.Anita Sumanth J.)

A common order is passed in these two appeals that relate to assessment years (AY) 2007-08 and 2008–09. The appeals are filed by the Department challenging an order of the Income-Tax Appellate Tribunal ('ITAT'/'Tribunal') dated 02.04.2013.

2. The substantial questions of law admitted on 07.07.2015 are as follows:-

T.C.(A).No.252 of 2015:-

1. Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the additions made by the Assessing Officer on account of loss on derivative contracts is to be allowed?

2. Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the transitional liability in respect of leave travel entitlement / medical benefit is not a prior period expenditure and has to be allowed even though the same has been claimed on actuarial valuation especially when the assessee is following mercantile system of accounting ?

3. Whether on the facts and in the circumstances of the case the Tribunal was right in upholding the orders of CITY(A) who held that disallowance of claim of debenture redemption reserve of the Bharat Overseas Bank is to be allowed as the same was taken over by the assessee bank ?

4. Is not the finding of the Tribunal bad especially when there is no provision under the Income Tax Act to allow deduction in respect of a reserve which was created by the Erstwhile company in the hands of the Amalgamated Company ?

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5. Whether the applicability of provisions of Section 115JB applied to Banking Company especially in the light of Sub-section(2) of Section 115JB?"

6. Whether the Banking Companies are to prepare its profit and loss account in accordance with the provisions of Part II and III of Schedule-VI of Companies Act, 1956 or prepare the same according to Banking Regulation Act, 1949 even after the introduction of Subsection (2) of Section 115JB?

T.C.(A).No.253 of 2014:-

"1. Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the additions made by the Assessing Officer in respect of leave encashment is to be allowed especially when only a provision was made and not paid even after the introduction of Section 43B(f) of the Act?

2. Whether on the facts and in the circumstances of the case the Tribunal was right in granting depreciation at the rate of 60% on UPS especially when the same is eligible for depreciation at 15% only as applicable to plant and machinery as per the entries in the depreciation Table stated in Appendix-I provided in the Income Tax Rules?

3. Whether higher rate of depreciation is to be allowed on UPS which is not a Integral part of the Computer but only a machine which stores power for the purpose of using such stored power during power cuts providing uninterrupted power supply and is energy storing devise classifiable under Plant and Machinery only?

4. Whether the finding of the Tribunal is proper by granting excess depreciation on UPS stating the same is part of the Computer hardware?

3. We have heard Mr.D.Prabhu Mukund Arun Kumar, learned Senior Standing Counsel for the appellant and Mr.R.Vijayaraghavan, learned counsel for the respondent.

T.C.(A)No.252 of 2015:

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4. The first question relates to the allowance of loss on derivative contracts. The appellant had claimed loss to the tune of Rs.98.50 crores on the revaluation of derivative contracts.

5. At the time of assessment, the assessing authority adopted the position that derivative contracts would be of the nature of speculative transactions and hence proposed to disallow the loss, to which the explanation tendered was that the derivatives constitute stock in trade. Hence applying AS11, the stock had been valued on the basis of the lower of either market or cost price.

6. The assessee's objection was rejected by the assessing officer and confirmed by the CIT(A) and the Tribunal, following the order of the Bombay Bench of the ITAT in *Edelweiss Capital Ltd v ITO*[1].

7. Having heard both learned counsel, we answer the question in favour of the assessee, and our reasons are as follows. The classification of the derivatives as stock-in-trade is not in dispute. In such circumstances, the loss or gain, as the case may be, should enure to either reduce or enhance its profit for the year in question.

8. This very question, relating to allowability under Section 37 of the Act, of loss on account of foreign exchange difference as on date of the balance sheet, had come to be considered by the Supreme Court in *CIT v Woodward*

[1]ITA No.5324/Mum/2007 dt 10.11.2010

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Governor India (P) Ltd[2], and the discussion and conclusion on this issue, are as follows:-

> *14. In the case of M.P. Financial Corporation v. CIT reported in 165 ITR 765 the Madhya Pradesh High Court has held that the expression "expenditure" as used in Section 37 may, in the circumstances of a particular case, cover an amount which is a "loss" even though the said amount has not gone out from the pocket of the assessee. This view of the Madhya Pradesh High Court has been approved by this Court in the case of Madras Industrial Investment Corporation Ltd. v. CIT reported in 225 ITR 802. According to the Law and Practice of Income Tax by Kanga and Palkhivala, Section 37(1) is a residuary section extending the allowance to items of business expenditure not covered by Sections 30 to 36. This Section, according to the learned Author, covers cases of business expenditure only, and not of business losses which are, however, deductible on ordinary principles of commercial accounting. (see page 617 of the eighth edition). It is this principle which attracts the provisions of Section 145. That section recognizes the rights of a trader to adopt either the cash system or the mercantile system of accounting. The quantum of allowances permitted to be deducted under diverse heads under Sections 30 to 43C from the income, profits and gains of a business would differ according to the system adopted. This is made clear by defining the word "paid" in Section 43(2), which is used in several Sections 30 to 43C, as meaning actually paid or incurred according to the method of accounting upon the basis on which profits or gains are computed under Section 28/29. That is why in deciding the question as to whether the word "expenditure" in Section 37(1) includes the word "loss" one has to read Section 37(1) with Section 28, Section 29 and Section 145(1). One more principle needs to be kept in mind. Accounts regularly maintained in the course of business are to be taken as correct unless there are strong and sufficient reasons to indicate that they are unreliable. One more aspect needs to be highlighted. Under Section 28(i), one needs to decide the profits and gains of any business which is carried on by the assessee during the previous year. Therefore, one has to take into account stock-in-trade for determination of*

[2]312 ITR 254(SC)

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profits. The 1961 Act makes no provision with regard to valuation of stock. But the ordinary principle of commercial accounting requires that in the P&L account the value of the stock-in-trade at the beginning and at the end of the year should be entered at cost or market price, whichever is the lower. This is how business profits arising during the year needs to be computed. This is one more reason for reading Section 37(1) with Section 145. For valuing the closing stock at the end of a particular year, the value prevailing on the last date is relevant. This is because profits/loss is embedded in the closing stock. While anticipated loss is taken into account, anticipated profit in the shape of appreciated value of the closing stock is not brought into account, as no prudent trader would care to show increase profits before actual realization. This is the theory underlying the Rule that closing stock is to be valued at cost or market price, whichever is the lower. As profits for income-tax purposes are to be computed in accordance with ordinary principles of commercial accounting, unless, such principles stand superseded or modified by legislative enactments, unrealized profits in the shape of appreciated value of goods remaining unsold at the end of the accounting year and carried over to the following years account in a continuing business are not brought to the charge as a matter of practice, though, as stated above, loss due to fall in the price below cost is allowed even though such loss has not been realized actually. At this stage, we need to emphasise once again that the above system of commercial accounting can be superseded or modified by legislative enactment. This is where Section 145(2) comes into play. Under that section, the Central Government is empowered to notify from time to time the Accounting Standards to be followed by any class of assessees or in respect of any class of income. Accordingly, under Section 209 of the Companies Act, mercantile system of accounting is made mandatory for companies. In other words, accounting standard which is continuously adopted by an assessee can be superseded or modified by Legislative intervention. However, but for such intervention or in cases falling under Section 145(3), the method of accounting undertaken by the assessee continuously is supreme. In the present batch of cases, there is no finding given by the AO on the correctness or completeness of the accounts of the assessee. Equally, there is no finding given by

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the AO stating that the assessee has not complied with the accounting standards.

15. For the reasons given hereinabove, we hold that, in the present case, the "loss" suffered by the assessee on account of the exchange difference as on the date of the balance sheet is an item of expenditure under Section 37(1) of the 1961 Act.

16. In the light of what is stated hereinabove, it is clear that profits and gains of the previous year are required to be computed in accordance with the relevant accounting standard. It is important to bear in mind that the basis on which stockin-trade is valued is part of the method of accounting. It is well established, that, on general principles of commercial accounting, in the P&L account, the values of the stock-in-trade at the beginning and at the end of the accounting year should be entered at cost or market value, whichever is lower – the market value being ascertained as on the last date of the accounting year and not as on any intermediate date between the commencement and the closing of the year, failing which it would not be possible to ascertain the true and correct state of affairs. No gain or profit can arise until a balance is struck between the cost of acquisition and the proceeds of sale. The word "profit" implies a comparison between the state of business at two specific dates, usually separated by an interval of twelve months. Stock-in-trade is an asset. It is a trading asset. Therefore, the concept of profit and gains made by business during the year can only materialize when a comparison of the assets of the business at two different dates is taken into account. Section 145(1) enacts that for the purpose of Section 28 and Section 56 alone, income, profits and gains must be computed in accordance with the method of accounting regularly employed by the assessee. In this case, we are concerned with Section 28. Therefore, Section 145(1) is attracted to the facts of the present case. Under the mercantile system of accounting, what is due is brought into credit before it is actually received; it brings into debit an expenditure for which a legal liability has been incurred before it is actually disbursed. (see judgment of this Court in the case of United Commercial Bank v. CIT reported in 240 ITR 355). Therefore, the accounting method followed by an assessee continuously for a given period of time needs to be presumed to be correct till the AO comes to the conclusion for

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reasons to be given that the system does not reflect true and correct profits. As stated, there is no finding given by the AO on the correctness of the accounting standard followed by the assessee(s) in this batch of Civil Appeals.

9. The Supreme Court also considered the impact of Section 43A of the Act that deals, both pre and post amendment, to valuation of foreign currency. In the present case, since the derivative contracts constitute stock in trade, it is unnecessary to go into the interpretation of Section 43A. To reiterate, substantial question 1 is answered in favour of the assessee and adverse to the revenue.

10. The second issue relates to the allowability of liability in respect of Leave Travel Entitlement (LTE) and medical benefits. This claim is based on the revision of Accounting Standard 50 (AS50) which deals with employee benefits. AS50 was revised in the financial year relevant to subject assessment year and the method of accounting for employee benefits was amended to be provided as follows:

> *(a) a liability when an employee has provided service in exchange for employee benefits to be paid in the future; and*
>
> *(b) an expense when the enterprise consumes the economic benefit arising from service provided by an employee in exchange for employee benefits."*

11. The assessee had thus proceeded to revise the basis of provision of employee benefits including LTE, medical and other benefits. The assessing

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authority was of the view that the benefits provided for related to prior period items and hence disallowed the same.

12. The CIT(A) allowed the claim noting that liabilities had been determined scientifically and based on the actuarial valuation. The contention of the assessing officer that the expenses were for prior period was rejected as was the contention that the expenses were provisions for contingent liabilities. As against the aforesaid order of the CIT (A), the Revenue approached the Tribunal which confirmed the order of the CIT(A).

13. Having heard both learned counsel and having carefully perused the Accounting Standard in question, we are of the considered view that the contention of the assessing officer that the claim related to the prior period is factually incorrect. Our reasons are as follows. The assessee is bound to compute its income in line with the Accounting Standards issued by the Institute of Chartered Accountant of India. Hence the revision cannot, per se, be questioned.

14. On the question as to whether the computation of the liability had been undertaken in a scientific manner, we find that the assessee has produced the Annual Report for 2007-08, wherein at clause 9 of page 95 of the said Report various disclosures have been set out, in terms of the Accounting Standard. The Application and liabilities in relation to employee benefits have been set out at sub-clauses (i) to (iv) of Clause 9.2, as follows:

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9.2 Accounting Standard 15 – Employee Benefits

i) The Bank has adopted Accounting Standard 15 (Revised) 'Employees Benefits' issued by the Institute of Chartered Accountants of India, with effect from 1st April, 2007. Pursuant to the adoption, the transitional obligations pertaining to Employee Benefits of Rs.194 Crores other than pension has been provided by withdrawal of Rs.128.06 crores (net of deferred tax assets of Rs.65.94 Crores) from opening balance of General reserves as at 01.04.2007 and the tax portion has been charged to current year's profit & loss account.

ii) The transitional liability mainly arose on account of the change in the method of actuarial valuation prescribed by AS15-Revised as per the Projected unit credit method applied now as against the Aggregate Method used in the past.

iii) The transitional liability on account of Employee Pension amounts to Rs.445 Crores. A sum of Rs.89 Crores representing one-fifth of the Transitional Pension Liability has been charged to Profit & Loss Account of the current year ended 31.03.2008. The balance Unrecognised Liability of Rs.356 Crores has been carried forward to be charged off in the next four years.

iv) .....

15. We are hence of the considered view that the assessee has applied AS 50, as amended, and the provision for employee benefits are in line with the same. This question of law is answered in favour of the assessee.

16. Questions 3 and 4 deal with debenture redemption reserve that had been created by Bharat Overseas Bank (predecessor to the Appellant before us), in respect of debentures issued. In order to appreciate the accounting treatment

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followed and the trajectory that the creation of reserve has taken till the present financial year where the reserve was effaced, we had called for necessary documents and had been supplied with i) Annual Report for 2006-07, ii) Annual Report for 2007-08, iii) Gazette of India dated 30.03.2007, in terms of which Bharat Overseas Bank Limited was transferred as a unit of the Indian Overseas Bank, appellant before us, iv) Extract of Ledger setting out the treatment of the reserve in the books of the appellant and vi) statement of total income for the present assessment year.

17. From the aforesaid documents and on hearing the detailed submissions of the parties, we understand the transaction in this fashion. On the strength of debentures issued, Bharat Overseas Bank had created a debenture redemption reserve. In the annual report for 2006-07, we find a note to the effect that *'As per the scheme, the balance in the Foreign Currency Translation Reserve in BhoB amounting to Rs.15.48 crores has been transferred to "others (including provision)" under "other liabilities and provisions" in the books of the Bank. The balance of Debenture Redemption Reserve of BhoB amounting to Rs.6.00 crores has been retained under Debenture Redemption Reserve account in the books of the Bank.'* (para 2.8 page 76 of the annual report).

18. The Gazette Notification setting out the terms of transfer of Bharat Overseas Bank to Indian Overseas Bank stipulate the appointed date to be the

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close of business hours on 31.12.2006 and the effective date to mean close of business hours on 31.03.2007.

19. The ledger entries that have been placed before us reveal that the amount was transferred and credited to debenture redemption reserve on 29.09.2007. In the financial year relevant to the subject assessment year, the Board was of the view that the debenture redemption reserve was no longer required, as a result that the same was effaced from debenture redemption reserve (balance sheet item). A contra entry was made by crediting the same in miscellaneous account under the head ‘appropriations’ in the profit and loss account, duly supported by statement of ledger to such effect.

20. As the reserve was created out of appropriations of income in the hands of Bharat Overseas Bank, the same amount is not liable to be taxed yet again in the hands of the appellant, and it is for this reason that the assessee has reduced the amount from the profit and loss account. This is reflected is the narration in S.No.17 in the statement of total income, by virtue of which an amount of Rs.6.00 crores stood reduced from the net profit. The narration reads, *‘17.Debenture Redemption Reserve no longer required credited to P&L A/c not taxable’*.

21. The flaw arises from the fact that the authorities have misappreciated the *reduction of reserve not required to be continued*, as a *deduction* claimed, whereas the accounting treatment reveals the proper sequence of events as

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indicated in the paragraphs supra. In our understanding of the matter as aforesaid, reliance of the revenue of the decision of the Punjab and Haryana High Court in *Dashmesh Transport Co. (P) Ltd. v. Commissioner of Income-tax*[3] is of no avail.

22. In that case, the assessee had taken over an entity by name Khalsa Nirbhai Transport Company (Private) Ltd. and, on paying the income tax liability of the transferor company, claimed it as a deduction. The claim was negatived by the authorities and confirmed by the High Court on the ground that income tax liability would not be an allowable deduction under Section 37 of the Act. The facts and legal position in that case are distinguishable.

23. We find that both the authorities, CIT(A) and ITAT, have properly understood the issue as captured supra, and we find no necessity to intervene. Question Nos.3 and 4 are answered in favour of the assessee and adverse to the revenue.

24. As regards question Nos.5 and 6 relating to application of provisions of MAT to a banking company, we had considered this issue in the assessee's own case in *Commissioner of Income-Tax v Indian Overseas Bank*[4] (T.C.(A) 18 of 2014), and by our order dated 29.9.2026, have held as follows:-

> *3. As far as the first issue is concerned, it is covered by a decision of this Court in Commissioner of Income Tax, Chennai*

[3] 125 ITR 681
[4] 2026:MHC:4044

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vs. Indian Overseas Bank [T.C.A.Nos.151 & 152 of 2014, dated 08.12.2025], wherein the question was answered in favour of the assessee applying the decision of the Karnataka High Court in Commissioner of Income Tax vs. Karnataka Bank Ltd. [(2022) 142 taxmann.com 64 (Kar.)]. The operative portion of the judgment reads as follows:-

"3. The operative portion of the judgment in Commissioner of Income-Tax V. Karnataka Bank Ltd. (supra) is as follows:

'....

This appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as the Act for short) has been preferred by the assessee against the order dated 19-01-2018 passed by the Income Tax Appellate Tribunal. The subject matter of the appeal pertains to the Assessment year 2008-2009. The appeal was admitted by a bench of this Court on the following substantial questions of law:

1. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in setting aside disallowance made under the head investment portfolio by following earlier decisions which has not reached finality even when the assessing authority rightly made disallowance by holding that irrespective of RBI guidelines were applicable to the assessee for the purposes of the I.T.Act or not, as per the principles of accountancy and the various decisions of Apex Court, income should be recognized in a way which reflects a true and fair picture of the affairs of the assessee and accordingly, when bank itself is treating the securities as "held to maturity", for any reason whatsoever, the same should be the case for purposes of Income Tax as this representation alone reflects the true picture of the accounts of the assessee?

2. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in setting aside disallowance made under Section 14A read with Rule

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8D(2) (ii) and (iii) of the Act on expenditure incurred on earning exempt income even when the assessing authority rightly made disallowances as conditions for making such disallowances were satisfied and assessee failed to show flow of its own funds to those investments from which income is exempt?

3. Whether on the facts and in the circumstances of the case, the Tribunal is right in law holding that the assessee-Bank cannot be considered as a Company by following decisions which has not reached finality and even when as per Section 2(17) of the Act, the Company is defined as an Institution, association or body which is or otherwise assessable or assessed as a Company and as such Section 115JB is applicable to assessee Bank for MAT purposes?

4. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in setting aside disallowance in setting aside disallowance made under Section 40(a) (ia) of the Act on ATM charges of other Banks even though Section 194H and Explanation to said section is applicable to assessee Bank and as such assessee ought to have deducted TDS on such payments?"

2. When the matter was taken up today, the learned counsel for the assessee submitted that the 1st and 5 3rd substantial questions of law involved in this appeal have already been answered in favour of the assessee by this Court vide judgment dated 16.01.2020 in the case of CIT v. ING Vysya Bank Ltd. reported in [2020] 114 taxmann.com 506/270 Taxman162/422 ITR 116 (Kar.)

3. It is further also submitted that the 2nd substantial question of law involved in this appeal also has already been answered in favour of the assessee by this Court vide judgment dated 15.02.2021 in ITA No.133/2015 the case of CIT v. Quest Global Engineering Services(P). Ltd. It is further submitted that the 4th substantial question of law is also answered by a bench of this Court vide Judgment

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dated 23.11.2020, passed in CIT v. Corporation Bank [2021] 123 taxmann.com 204/277 taxman 207/431 ITR 554 in favour of the assessee and against the revenue.

4. The aforesaid submission could not be disputed by the learned counsel for the revenue.

5. For the reasons assigned by us in the aforementioned judgments supra the substantial questions of law framed in this appeal are answered in favour of the assessee and against the revenue.

In the result, appeal filed by the revenue fails and is hereby dismissed.'

4. The matters are presently being consolidated before the Hon'ble Supreme Court and leave has been granted at the instance of the revenue (See Commissioner of Income Tax, LTU V. Vijaya Bank ([2021] 130 taxmann.com 149 (SC)) and Commissioner of Income-Tax V. Karnataka Bank Ltd. ([2022] 142 taxmann.com 65 (SC)).

5. In light of the above, the substantial question of law is answered in favour of the assessee.

25. Substantial questions 5 and 6 are answered in favour of the assessee.

26. Coming to T.C.(A) No. 253 of 2015, the first question is liable to be answered in favour of the Revenue in light of the judgment of the Supreme Court in *Union of India v Exide Industries Ltd*[5]. In fact, we have concluded so in the assessee's own case *Indian Overseas Bank*[6] and we extract the operative portion below:-

[5]425 ITR 1
[6]Foot Note Supra 4

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"39. Reverting to the true effect of the reported judgment under consideration, it was rendered in light of general dispensation of autonomy of the assessee to follow cash or mercantile system of accounting prevailing at the relevant time, in absence of an express statutory provision to do so differently. It is an authority on the nature of the liability of leave encashment in terms of the earlier dispensation. In absence of any such provision, the sole operative provision was Section 145(1) of the 1961 Act that allowed complete autonomy to the assessee to follow the mercantile system. Now a limited change has been brought about by the insertion of clause (f) in Section 43B and nothing more. It applies prospectively. Merely because a liability has been held to be a present liability qualifying for instant deduction in terms of the applicable provisions at the relevant time does not ipso facto signify that deduction against such liability cannot be regulated by a law made by Parliament prospectively. In matter of statutory deductions, it is open to the legislature to withdraw the same prospectively. In other words, once the Finance Act, 2001 was duly passed by the Parliament inserting clause (f) in Section 43B with prospective effect, the deduction against the liability of leave encashment stood regulated in the manner so prescribed. Be it noted that the amendment does not reverse the nature of the liability nor has it taken away the deduction as such. The liability of leave encashment continues to be a present liability as per the mercantile system of accounting. Further, the insertion of clause (f) has not extinguished the autonomy of the assessee to follow the mercantile system. It merely defers the benefit of deduction to be availed by the assessee for the purpose of computing his taxable income and links it to the date of actual payment thereof to the employee concerned. Thus, the only effect of the insertion of clause (f) is to regulate the stated deduction by putting it in a special provision.

40. Notably, this regulatory measure is in sync with other deductions specified in Section 43B, which are also present and accrued liabilities. To wit, the liability in lieu of tax, duty, cess, bonus, commission etc. also arise in the present as per the mercantile system, but assessees used to defer payment thereof despite claiming deductions there against under the guise of mercantile system of accounting.

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Resultantly, irrespective of the category of liability, such deductions were regulated by law under the aegis of Section 43B, keeping in mind the peculiar exigencies of fiscal affairs and underlying concerns of public revenue. A priori, merely because a certain liability has been declared to be a present liability by the Court as per the prevailing enactment, it does not follow that legislature is denuded of its power to correct the mischief with prospective effect, including to create a new liability, exempt an existing liability, create a deduction or subject an existing deduction to new regulatory measures. Strictly speaking, the Court cannot venture into hypothetical spheres while adjudging constitutionality of a duly enacted provision and unfounded limitations cannot be read into the process of judicial review. A priori, the plea that clause (f) has been enacted with the sole purpose to defeat the judgment of this Court is misconceived.

41. The position of law discussed above leaves no manner of doubt as regards the legitimacy of enacting clause (f). The respondents have neither made a case of non-existence of competence nor demonstrated any constitutional infirmity in clause (f).”

27. This question is answered in favour of the Revenue.

28. Questions 2 to 4 relate to claim of depreciation on UPS and are answered in favour of the assessee following our decision in *Indian Overseas Bank*[7], the relevant operative portion of which reads thus:-

5. As far as the third issue is concerned, it is answered in favour of the assessee following the decision of this Court in Principal Commissioner of Income Tax-4 vs. Cholamandalam MS General Insurance Company Ltd. [(2025) 175 taxmann.com 452] and the decision of Delhi High Court in Principal Commissioner of Income Tax vs.

[7]Foot Note Supra 4

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Nestle India Ltd. [(2023) 153 taxmann.com 201]. In Cholamandalam'scase, the relevant paragraphs read thus:

> *"9. The substantial questions of law in regard to the issue of Depreciation on UPS are also answered in favour of the assessee in light of the decision of the Madras High Court in T.V.Sundaram Iyengar & Sons Ltd vs The Commissioner Of Income Tax [T.C.(A) No.684 of 2009, dated 30.11.2021]. The relevant paragraphs read thus:*
>
> > *4. As regards the third question of law, the learned counsel for the appellant fairly submitted that the same has already been considered and decided by this court by order dated 18.01.2019 in TCA No.23 of 2019, wherein, it was held that the assessee would be entitled to depreciation at 60% on UPS and Voltage Stabilizer, the relevant paragraphs of which are usefully reproduced below:*
> >
> > > *"4...with regard to the rate of depreciation that can be claimed for UPS and Routers, the Tribunal in the impugned order relied upon earlier decision of the Chennai Tribunal as well as the decision of the High Court of Delhi in the case of CIT vs. Oriental Ceramics and Industries Limited reported in (2013) 358 ITR 49 (Del.) and held that the assessee would be entitled to depreciation at 60%. Therefore, we are of the considered view that the finding rendered by the Tribunal is just and proper.*
> >
> > *5. An UPS which is capable of giving uninterrupted power supply for a computer of a stipulated period has not been established to have an independent usage by placing any material. If the revenue disputes that the UPS can independently function, then the Assessing Officer should have material to*

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the said effect. We are informed that the configuration of the power output for the UPS is designed to suit the equipment for which it shall supply uninterrupted power. Similarly, Routers also are to be considered as an integral part of computer.

6. This Court had an occasion to consider as to whether the printers are eligible for depreciation at 60%. In the case of CIT vs. Cactus Imaging India (P) Ltd., reported in [2018] 406 ITR 406 (Mad) and held that the assessee was entitled to depreciation at 60%. We find that there is no finding recorded by the Tribunal on the said head. Accordingly, Substantial Question of Law No.1 stands rejected. "

Therefore, the learned counsel agreed that the depreciation value of the UPS and stabilizer can be fixed at 60% instead of 100% as claimed by the assessee.

5. There is no serious objection on the side of the respondent/revenue on the above submissions made by the learned counsel for the petitioner.

6. In the light of the aforesaid decisions and taking note of the submissions made by the learned counsel appearing for both sides, we hold that the questions of law 1 and 2 are decided in favour of the assessee and against the revenue; and the third question of law is decided to the effect that the assessee is entitled to the depreciation at 60% as against 25% assessed by the respondent / revenue."

29. This question is answered in favour of the assessee.

30. In fine, T.C.(A) No. 253 of 2015 is disposed and T.C.(A) No. 252 of 2015 is partly allowed. No costs.

(A.S.M,J.) (S.K,J.)
27-10-2026

https://www.mhc.tn.gov.in/judis

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Index: Yes/No
Speaking order
Neutral Citation: Yes

SSM/SL

To

The Income Tax Appellate Tribunal, Madras ‘A’ Bench Chennai.

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DR.ANITA SUMANTH, J.
AND
S.KARTHIKEYAN, J.

SSM/SL

TCA No. 252 of 2015
AND
TCA NO. 253 OF 2015

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