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TCA No.169 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-01-2026

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THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

TCA No.169 of 2013

M/s IDFC Limited
KRM Towers, 8th Floor, No.1, Harrington Road,
Chetpet, Chennai – 600 031.

..Appellant

Vs

The Assistant Commissioner Of
Income Tax, Company Circle II(3), Chennai.

..Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against
Income Tax Appeal No.101/Mds/2012 dated 28.09.2012 on the file of the
Income Tax Appellate Tribunal, Chennai “C” Bench for the assessment year
2007 – 2008.

For Appellant(s): Mr.Niraj Sheth

For Respondent(s): Mr.T.Ravikumar
Senior Standing Counsel



JUDGMENT

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

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This Tax Case (Appeal) relating to assessment year 2007-08 has been filed at the instance of the assessee assailing order dated 28.09.2012 passed by the Income Tax Appellate Tribunal (in short 'ITAT'/'Tribunal').

2. The substantial questions of law that had been admitted on 19.06.2013 are as follows:

1. Whether the Income Tax Appellate Tribunal erred in holding that the deduction to which the appellant was entitled under Section 36(1)(viia)(c) of the Act was to be granted after reducing, from the appellant's income, the deduction to which the appellant was entitled under Section 36(1)(viii) of the Act?

2. Whether the Income Tax Appellate Tribunal ought to have held that the deduction to which the appellant was entitled under Section 36(viia)(c) of the Act was to be granted to it without reducing, from the appellant's income, the deduction to which the appellant was entitled under Section 36(1)(viii) of the Act?

3. We have heard the detailed submissions of Mr.Niraj Sheth, learned counsel appearing for Mr.O.R.Santhanakrishnan, learned counsel on record for the appellant/assessee and Mr.T.Ravikumar, learned Senior Standing Counsel appearing for the respondent/revenue.

4. We find that the issue stands squarely covered by decisions of two different Division Benches of this Court in the assessee's own case for assessment years 2000-01, 2001-02 and 2002-03 in T.C.(A) Nos.1288 and 1290



of 2009 dated 08.09.2015 and T.C.(A)No.939 of 2008 dated 01.03.2019 respectively.

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5. Hence, it would suffice for us to extract the discussion and reasoning in order dated 08.09.2015, which is the first order on this issue, as we concur with the same. The operative portion as aforesaid, reads thus:

26. In short, the question that falls for consideration is as to whether the deduction should first be allowed in terms of Section 36(1)(viii) for the application of the deduction under Section 36(1)(viia)(c).

27. All the three authorities were of the unanimous view that there is a distinction between the two types of deduction. The deduction allowable under Section 36(1)(viii), after its amendment under the Finance Act, 1995, is on the profits derived from business. The deduction allowable under Section 36(1)(viia)(c) is on the total income. Therefore the authorities held that the deduction under clause (viii) will have to be computed first before applying the deduction under clause (viia)(c).

28. But keeping aside the amendment introduced in 1995 for a moment, if we have a look at the import of Section 36(1) by itself, it is clear that sub-section (1) of Section 36 lists out the matters in respect of which deductions can be allowed while computing the income referred to in Section 28. Clauses (i) to (xi) of sub-section (1) of Section 36 did not make any of those matters dependent upon one another. If an assessee is entitled to the benefit under one clause of sub-section (1) of Section 36, the assessee was not deprived of the benefit of the other clause. This is how several clauses in sub-section (1) have been arranged.

29. It is true that before the amendment introduced under the Finance Act, 1995, the deduction to be allowed under clause (viia)(c) and clause (vii) were placed on par. The deduction was



only on the total income. But, as rightly contended by the learned counsel for the appellant, the amendment did not change the character of the deduction, but changed merely the method of computation. Instead of directing the assessee to compute it at 40 percent on the total income, the amendment directed the assessee to compute the deduction at 40 percent on the profits derived out of business.

30. Such an interpretation is what appears to be borne out by the memorandum explaining the provisions in the Finance Bill, 1995, whereunder the amendment was introduced. The relevant portion of the memorandum reads as under:-

"Under clause (viii) of sub-section (1) of section 36 of the Income Tax Act, 1961, an approved financial corporation engaged in providing long-term finance for industrial or agricultural development in India, or an approved public company formed and registered in India with the main object of carrying on business of providing long-term finance for construction or purchase of residential houses, is entitled for a deduction of an amount not exceeding 40 per cent of its total income carried to a special reserve. The deduction is allowed on the "total income" and not with reference to the income from the activities specified in section 36(1)(viii).

These organisations have diversified their activities and are claiming deduction under this section even in respect of their income from activities other than those specified in this section. There is no justification for allowing the deduction with reference to income from other activities or from sources other than business. It is, therefore, proposed to limit the deduction of 40 per cent only to the income derived from providing long-term finance for the activities specified in section 36(1)(viii). It will thus take outside the purview of deduction, income arising



from other business activities or from sources other than business."

31. If each of the clauses under sub-section (1) of Section 36 is independent in its operation and if each one of them does not depend upon the other clause for the extension of the benefit, then the interpretation given by the respondent cannot be accepted.

32. Yet another distinction brought forth by the learned counsel for the appellant, also deserves consideration. While the benefit of deduction under clause (vii)(c) is available to any public financial institution or State financial corporation or State industrial investment corporation, in respect of a provision for bad and doubtful debts, the benefit of the deduction under clause (viii) is available only for the financial corporations engaged in providing long-term finance for industrial or agricultural development or development of infrastructure facility in India. Therefore, if the interpretation as given by the authorities are accepted, the benefit that will accrue to a finance corporation incorporated in India and providing long-term finance for infrastructure development would be lesser than what is received by the foreign banks and foreign financial institutions. This could not have been the purport of the amendment brought forth under the Finance Bill, 1995.

6. We are given to understand that the above decision has not been challenged by the revenue and has attained finality. Based on the above reasoning, this Tax Case (Appeal) is allowed answering the substantial questions of law in favour of the assessee and against the Revenue. No costs.

(A.S.M.,J.) (M.S.K.,J.)
20-01-2026

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No



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DR.ANITA SUMANTH J.

AND

MUMMINENI SUDHEER KUMAR J.

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To

1. The Assistant Commissioner Of
Income Tax, Company Circle II(3), Chennai.
2. The Income Tax Appellate Tribunal, Chennai “C” Bench, Chennai.

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