IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on: 17.04.2026

Judgment Delivered on: 02.06.2026

Coram:

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

T.C.A.Nos.96 and 97 of 2013 & 456 and 457 of 2013

T.C.A.No.96 of 2013

M/s.Vedanta Limited,
(Successor in Interest to Cairn India Limited)
ASF Center, Tower B, 362-363,
Jwala Mill Road, Phase IV, Udyog Vihar,
Gurugram, Haryana-122 016. … Appellant

Cause title amended vide court order dated 13.03.2026 made in CMP.No.1066/2025 in TCA.No.96/2013 (GJJ and SSAJ)

vs.

The Assistant Director of Income Tax,
(International Taxation),
121, Nungambakkam High Road,
Chennai - 600 034. … Respondent

Prayer: Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench dated 22.08.2012 in ITA.No.207/Mds/2012 Assessment Year 2002–2003.

T.C.A.No.97 of 2013

M/s.Vedanta Limited,
(Successor in Interest to Cairn India Limited)
ASF Center, Tower B, 362-363,
Jwala Mill Road, Phase IV, Udyog Vihar,
Gurugram, Haryana-122 016. … Appellant

Cause title amended vide court order dated 13.03.2026 made in CMP.No.992/2025 in TCA.No.97/2013 (GJJ and SSAJ)

vs.

The Assistant Director of Income Tax,
(International Taxation),
121, Nungambakkam High Road,
Chennai - 600 034. … Respondent

Prayer: Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench dated 22.08.2012 in ITA.No.208/Mds/2012 Assessment Year 2004–2005.

For Appellant in all cases : Mr.Srinath Sridevan, Senior Advocate, for M/s.M.V.Swaroop, Gayathri, B.Devadharshini, Hredai, Thivakkaran Rajagopalan, Sankar

For Respondent in all cases : Mr.B.Ramana Kumar, Senior Standing Counsel (IT) & Mr.Avinash Krishnan Ravi, Junior Standing Counsel

T.C.A.No.456 of 2013

Commissioner of Income Tax,
Chennai. … Appellant

vs.

M/s.Vedanta Limited,
(Successor in Interest to Cairn India Limited)
ASF Center, Tower B, 362-363,
Jwala Mill Road, Phase IV, Udyog Vihar,
Gurugram, Haryana-122 016.

Cause title amended vide court order dated 13.03.2026 made in CMP.No.989/2025 in TCA.No.456/2013 (GJJ and SSAJ)

Prayer: Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, dated 22.08.2012 in ITA.No.327/Mds/2012.

T.C.A.No.457 of 2013

Commissioner of Income Tax,
Chennai. … Appellant

vs.

M/s.Vedanta Limited,
(Successor in Interest to Cairn India Limited)
ASF Center, Tower B, 362-363,
Jwala Mill Road, Phase IV, Udyog Vihar,
Gurugram, Haryana-122 016.

Cause title amended vide court order dated 13.03.2026 made in CMP.No.991/2025 in TCA.No.457/2013 (GJJ and SSAJ)

Prayer: Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, dated 22.08.2012 in ITA.No.328/Mds/2012.

For Appellant in all cases : Mr.B.Ramana Kumar, Senior Standing Counsel (IT) & Mr.Avinash Krishnan Ravi, Junior Standing Counsel

For Respondent in all cases : Mr.Srinath Sridevan, Senior Advocate, for M/s.M.V.Swaroop, Gayathri, B.Devadharshini, Hredai, Thivakkaran Rajagopalan, Sankar

COMMON JUDGMENT

Dr.G.JAYACHANDRAN, J

The Appeals and cross appeals are filed by the assessee and the revenue being aggrieved by the orders of the Income Tax Appellate Tribunal, Chennai in the batch of appeals in respect of the assessee returns filed for the AY 2002-2003 and 2004-2005.

(i) T.C.A.No.96 of 2013 under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai Bench "C", dated 22.08.2012 in I.T.A.No.207/Mds/2012 for the AY 2002-2003 and T.C.A.No.97 of 2013 under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai Bench-"C", dated 22.08.2012 in I.T.A.No.208/Mds/2012 for the AY 2004-05, are the appeals by the assessee.

(ii) T.C.A.No.456 of 2013 under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, dated 22.08.2012 in I.T.A.No.327/Mds/2012 for the AY 2002-2003 and the T.C.A.No.457 of 2013 filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "C" Bench, dated 22.08.2012 in I.T.A.No.328/Mds/2012 for the year 2004-2005, are by the Revenue.

2. The cross appeals by the assessee and the Revenue in respect of the assessment years 2002-03 and 2004-05 were disposed by the Income Tax Appellate Tribunal (ITAT) *vide* common order dated 22/08/2012. It partly allowed the appeals filed by the Revenue through common order. Being aggrieved, the assessee in T.C.(A).No.96 of 2010 and T.C.(A).No.97 of 2010 and the revenue in T.C.(A).No.456 of 2010 and T.C.(A).No.457 of 2010 are before us by way of respective appeals.

3. The company "Cairn Energy India Pvt. Limited (CEIL)" is a non-resident Company incorporated in New South Wales, Australia and engaged in prospecting and production of mineral oil and in some cases, gas also, in India its Project Office located at Chennai. The said Company is wholly owned subsidiary of Cairn Energy Asia Limited (CEAL), which is a company incorporated and registered in Australia.

4. The Assessing Officer disallowed the assessee's claim in respect of provision for the site restoration amount to a tune of Rs.6,84,14,348/- for the Assessment Year 2002-03 and Rs.6,82,24,247/- for the Assessment Year 2004-05. This is the subject matter in these batch of appeals.

5. The ITAT, following its order passed in the case of the same assessee, the cross-appeals by the assessee-company and the Revenue, were disposed of by the Income Tax Appellate Tribunal, in "C" Bench, Chennai, by common order, dated 22.08.2012. Being aggrieved, the assessee-Company has filed T.C.A.Nos.96 and 97 of 2013 in respect of the respective assessment year 2002-2003 and 2004-2005. The Revenue has filed appeals in T.C.A.No.456 of 2013 for the assessment year 2002-2003 and T.C.A.No.457 of 2013 for the assessment year 2004-2005.

6. Considering the grounds of appeals, the appeals were admitted framing the following substantial questions of law:-

(i) T.C.A.Nos.96 and 97 of 2013 were admitted on 22.02.2013 on the following substantial questions of law:

(i) Whether on the facts and circumstances of the case of the Appellant that the amount of Rs.6,82,24,247/- debited in the profit and loss account towards provision for site restoration cost was not an allowable deduction under the Act ?

(ii) Whether on the facts and circumstances and correct interpretation of provisions contained in Section 37(1) of the Act read with Section 42 of the Act, the sum of Rs.6,82,24,247/- representing provision for site restoration cost is an eligible business deduction, while computing the income of the appellant Company?

(iii) Whether on the facts and circumstances of the case of the appellant, the Tribunal has correctly disposed of the instant appeal, particularly when it has not given any reasons for disallowing the deduction for site restoration costs under normal computation?

(iv) Whether on the facts and circumstances of the case, could it not be held that the deduction claimed as aforesaid represented an ascertained liability and allowable deduction on the basis of principles laid down by the Apex Court in the case of Calcutta Co. Ltd. Vs. CIT, reported in 37 ITR 1 and Bharath Earth Movers Ltd. Vs. CIT, reported in 245 ITR 428 ?

(ii) T.C.A.Nos.456 and 457 of 2013 were admitted by this Court on 30.10.2013 on the following substantial questions of law:

> *(i) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the provision for site restoration expenses could not be added back by way of adjustment treating it as an un-ascertained liability in computation of book profits under Section 115-JB, even though the dis-allowance of the claim under normal computation has been upheld ?*
>
> *(ii) Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the provision for site restoration expenses debited by the assessee to its profit and loss account is not an un-ascertained liability?*

7. The common order of the Income Tax Appellate Tribunal, dated 22.08.2012, impugned in this batch of appeals, stems out of the following facts:

The assessee was engaged in exploration of petroleum, pursuant to the joint venture agreement, dated 28.10.1994, entered into between the consortium of private companies, with Government of India and ONGC, and while filing the Return of their income for the assessment year 2002-2003, the assessee-Company claimed deduction in respect of the provision for "site restoration" to the tune of Rs.6,84,14,348/- and for the assessment year 2004-2005 under the same head being the sum of

Rs.6,82,24,247/-. The said amount was debited under the head "operating expenses" in the Profit and Loss Account. The provision made for site restoration is to be incurred in future, for restoration of the site, after completion of extracting the natural resources.

8. The claim of the assessee-Company is that its site restoration expenditure is ascertainable and they are entitled to claim deduction, in view of the judgment of the Honourable Supreme Court in the case of ***"Bharat Earth Movers Vs. Commissioner of Income Tax, Karnataka",*** reported in ***2000 (245) ITR 428 (SC)***.

9. Their claim was declined by the assessing officer by observing that the assessee has not incurred any expenditure towards site restoration during the period relevant under the assessment. It is only the provision made for future liability, which is not ascertainable.

10. On appeal by the assessee, the Tribunal, following its earlier consolidated order, dated 04.06.2010 in respect of the previous assessment years of the same assessee, dismissed the appeal of the assessee, holding that the pendency of the further appeal, i.e., in T.C.A.No.1299 to 1301 of 2010 filed by the assessees before the High Court, is not an impediment to dispose of the appeals against the assessee-Company.

11. It is pertinent to note that this Court, considering the assessee's appeal preferred against the earlier order of the Tribunal, referred and relied in the order impugned in the present appeals allowed those appeal in favour of the assessee. (T.C.A.Nos.1299 to 1301 of 2010 order even dated 04.06.2010). Therefore, the present appeals filed by the assessee, which are the subject matter of T.C.A.Nos.96 and 97 of 2013, for the subsequent years 2002-2003 and 2004-2005, has to be allowed and accordingly, T.C.A.Nos.96 and 97 of 2013 are allowed.

12. Insofar as the appeal filed by the Revenue in T.C.A.Nos.456 and 457 of 2013, the issue as to whether the observation of the Tribunal that the provision made for the "site restoration expenses", is concerned, the same is ascertainable, but cannot be claimed under Section 37(1) of the Income Tax Act, but only under Section 115-A and Section 115-J, are already covered by the judgment of this Court in respect of the same assessee for the previous assessment year in T.C.A.Nos.1483 to 1485 of 2010. In that appeal, we have answered the substantial questions of law summarised as under:

"While Section 33-ABA of the Act is incentive in nature and pre-deposit is required to claim the benefit of the incentive, it is optional to the assessee to claim the said incentive. Whereas, the “site restoration” is a mandatory requirement under the contract and for such expenditure, the assessee is eligible to claim deduction under Section 37(1) of the Act, it being the residuary clause, besides explicit deductions provided under the Act”.

13. Therefore, we are of the view that the impugned order of the Income Tax Appellate Tribunal, upholding the Assessment Order of dis-allowance claimed by the assessee in respect of the site restoration, has to be set aside.

Accordingly, the same is set aside.

14. In the result,

(i) T.C.A.Nos.96 and 97 of 2013 filed by the assessee-Company, are allowed.

(ii) T.C.A.Nos.456 and 457 of 2013 filed by the Revenue, stand dismissed.

There shall be no order as to costs.

(Dr.G.J., J) (R.S.V., J)
02.06.2026

Index : Yes/no
Speaking Order : Yes/no
Neutral Case Citation : Yes/no
cs

To,

1. The Assistant Director of Income Tax,
(International Taxation),
121, Nungambakkam High Road,
Chennai-600 034.

2. Director of Income Tax (International Taxation),
Chennai.

3. The Commissioner of Income Tax, Chennai.

Dr.G.JAYACHANDRAN, J

and

R.SAKTHIVEL, J

cs/bsm

Pre-delivery judgment
in
T.C.A.Nos.96 and 97 of 2013 and 456 and 457 of 2013

Judgment delivered
on 02.06.2026