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T.C.A.No.598 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2026

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR

T.C.A.No.598 of 2014

Shriram City Union Finance Limited,
No.123, Angappa Naicken Street,
Chennai – 600 001.

.. Appellant

VS

The Additional Commissioner of Income Tax,
Company Range VI,
121, M.G.Road,
Chennai – 600 034.

.. Respondent

Prayer : Appeal filed under Section 260A of the Income-Tax Act, 1961

against the order of the Income Tax Appellate Tribunal, Madras 'B'

Bench dated 11.04.2013 in ITA No.1744/Mds/2012.

For Appellant : Mr.R.Sivaraman

For Respondent : Mr.J.Narayanaswamy
Senior Standing Counsel



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JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

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Both Mr.Sivaraman, appearing for the assessee and Mr.J.Narayanasamy, appearing for the Revenue accede to the position that the issue arisen in this matter is covered by a decision passed by the Division Bench of this Court in a batch of appeals in TCA Nos. 755 of 2009 and batch dated 30.06.2022.

2. The present appeal relates to assessment year 2009 – 10 and has been admitted on 25.11.2014 on the following questions of law:-

“1. Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that there has been no diversion of income by overriding charge in respect of amount transferred to Statutory Reserve Fund in compliance with the mandatory provisions of Section 45IC read with Section 45Q of the RBI Act?

2. Whether on the facts and circumstances of the case, the Tribunal was right in holding that the amount transferred to Reserve Fund in compliance with the provisions of Reserve Bank of India Act, 1934, by the appellant from its income, is not an allowable deduction in computing the assessable income under the provisions of Indian Income Tax Act, 1961 both in Regular computation and under Section 115JB?”

3. The same questions have been raised for earlier assessment years as well and held adverse to the assessee following the decision of the



Delhi High Court in the case of *SREI Infrastructure Finance Ltd v*

*Additional Commissioner of Income Tax*¹. The discussion is as follows:-

*“5.15. Section 115JB states that for computing the book profit, the amount meeting out the liabilities other than ascertained liabilities, has to be added. The statutory reserve fund based on the RBI guidelines, is not based on any ascertained liabilities and hence, it has to be added for arriving at the book profit under section 115 JB. At this juncture, it would be relevant to refer to the decision of the Delhi High Court in *SREI Infrastructure Finance Ltd v. Additional Commissioner of Income Tax*, wherein, an identical question of law as raised herein i.e., whether the reserve created under section 45 IC of the RBI Act will have to be included while computing book profits u/s 115 JB of the Act, was considered and it was observed as follows:*

14. In the present case, we are concerned with clause (b) to Explanation 1 which states that book profit prepared in accordance with Part II and III of Schedule VI of the Companies Act, 1956 will be increased by the amount carried to any reserve by whatever name called, other than a reserve specified under section 33AC of the Act. The legislature in express, lucid and categorical terms has stipulated that the book profit shall be increased by the amounts carried to any reserve. The word any, it is obvious, refers to all kinds of reserves and encompasses all types and categories without exception. The legislature did not stop and has thereafter used the expression reserve by whatever name called. There could not have been more clarity and articulateness in the language of clause (b) to Explanation (1). The intention is unambiguous, i.e, book profit would include all amounts carried to any reserve by

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whatever name called, except the reserve specified under section 33AC of the Act. The nature and type of reserve or its character would not affect operation of clause (b) to Explanation (1). Only reserves specified in Section 33AC of the Act have to be excluded. Guidance Note on revised Schedule VI to the Companies Act, 1956 by the Institute of Chartered Accountants of India would indicate that reserves and surplus are generally classified as; (a)capital reserve; (b)capital redemption reserve; (c)securities premium reserve; (d)debenture redemption reserve; and (e)valuation reserve or other reserves. In addition, there can be share options outstanding account and surplus, i.e, the balance in the statement of profit and loss disclosing allocations and appropriations such as dividend, bonus shares and transferred to /from reserves, etc.

Further, the Delhi High Court did not agree with the applicability of cases concerning Molasses Storage Fund and observed that reserve under section 45 IC is created out of profits earned and it cannot be said to be the diversion of income at source. Ultimately, it was held as follows:

“32.As noticed above, -provision- and -reserves- are different accounting terms. A provision created to meet a known liability is a charge against the profit. Hence, it is debited to the profit and loss account and reduces the profit. Provisions should be created, even if there is insufficient profit. Provision is not, therefore, invested. On the other hand, -reserve- is only appropriation of profit and therefore, it is not debited to the profit and loss account. The purpose of reserve is to strengthen the financial position and to meet unforeseen liabilities which may arise in future. The reserves are created out of adequate profits. However, once reserve is



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created, it reduces divisible profit. This is the amount of profit which is retained for use in business when difficulty arises. Reserves can be invested. The said investments can be even outside the business and in such cases the reserve is called the reserve fund. Reserves are shown on the liability side of the balance sheet and are generally treated as belonging to the proprietor just as capital. It is a sum owned by the business to the proprietor. Reserves themselves are not assets but represent a portion of the assets which the proprietor is free to utilise for business as one likes, i.e, the assets equalling the reserves that are not required to pay liabilities. Generally reserves are created at the discretion of the management as a matter of prudence, but in certain cases a statute can direct creation of special reserves. For the purpose of section 115JB of the Act, statutory reserves are treated alike and in a similar manner as other reserves.”

5.16. In the light of the aforesaid decision of the Delhi High Court, wherein, it was clearly stated that the reserve is the amount of profit which is retained for use in business, when difficulty arises and on the basis of our earlier findings and from the very language of section 45 IC, this court comes to a conclusion that the amount transferred by the assessee herein, to the statutory reserve as mandated under the provisions of the RBI Act, is not an allowable deduction in computing the assessable income under the provisions of the Act under the regular computation and computation of book profits under section 115JB, as the case may be and therefore, the orders of the authorities below, do not call for any interference. Accordingly, the consequential issue is also decided against the assessee.”



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4. In light of the aforesaid, this tax case (appeal) stands dismissed.

No costs.

[A.S.M, J.] [M.S.K, J.]
23.01.2026

Index:Yes/No

Neutral Citation:Yes

ssm

To

1. The Additional Commissioner of Income Tax,
Company Range VI, 121, M.G.Road,
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2.The Income Tax Appellate Tribunal, Madras ‘B’ Bench, Chennai.



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