

Pr. Commissioner of Income Tax - Central-1 v. SpiceJet Limited

ITA 539/2026 & ITA 540/2026

2026:DHC:5982-DB | 2026-07-23

Aircraft supplemental rent for airframe/engine overhaul is deductible revenue expenditure under section 37(1); rule of consistency across assessment years.

Income-tax Act, 1961: sections 37(1), 40(a)(i), 153A, 195 and 260A | India-Ireland DTAA; India-France DTAA

High Court of Delhi | 2-judge bench (Division Bench) | V. Kameswar Rao, J. | Vinod Kumar, J.

Assessment years: 2012-13, 2013-14

Delay of 1,095 days in re-filing noted alongside merits consistency ruling

The Court noted an extraordinary delay of 1,095 days in re-filing the appeals (paragraphs 1-4) and observed that even though the explanation for delay was insufficient, the issue on merits was also squarely covered against the Revenue by its own acceptance of the identical supplemental-rent deduction in earlier and later years. Additionally, the section 40(a)(i) / DTAA aspect recorded in the ITAT extract turned on pre-amendment exemption / treaty provisions for aircraft leases.

01 FACTS OF THE CASE

Pursuant to a search on the SpiceJet group on 29.01.2015, assessments were framed under section 153A for AY 2012-13 and under section 143(3) for AY 2013-14. The Assessing Officer disallowed Rs. 1,62,82,22,879 (AY 2012-13) and Rs. 2,34,63,16,803 (AY 2013-14) paid by SpiceJet Limited to foreign aircraft lessors as 'supplemental rent' (usage-based payments calculated per flying hour/cycle towards major airframe, engine, landing-gear and APU maintenance/overhaul), treating the outlay as capital expenditure and also invoking section 40(a)(i) for non-deduction of tax at source. Both the CIT(A) and the ITAT (following InterGlobe Aviation Ltd.) deleted the disallowances, holding that supplemental rent is an operational lease cost deductible under section 37(1) and not chargeable to tax in India under the applicable DTAAs (including Ireland and France). The Revenue filed these appeals with a 1,095-day delay in re-filing.

Source: [Paragraphs 1-11; PDF pp. 1-7](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench noted that the Revenue's application seeking condonation of 1,095 days' delay in re-filing offered only routine administrative excuses. Examining the merits as well, the Court observed that in the assessee's own assessments for AYs 2007-08 to 2011-12 and subsequent AY 2014-15 onwards, supplemental lease rent paid under identical dry-lease agreements had been accepted as revenue expenditure, and for AY 2012-13 no incriminating material had been unearthed during search. Following the rule of consistency laid down by the Supreme Court in *Radhasoami Satsang v. CIT*, (1992) 193 ITR 321 (SC) and the coordinate-bench findings affirming the ITAT's reliance on *InterGlobe Aviation Ltd.*, the Court held that supplemental lease rent incurred to keep leased aircraft airworthy creates no enduring capital asset owned by the lessee.

Source: [Paragraphs 12-17; PDF pp. 7-10](#)

03 JUDICIAL DECISION

The High Court dismissed both Revenue appeals (ITA 539/2026 and ITA 540/2026) and pending applications, finding neither sufficient cause for the 1,095-day re-filing delay nor any substantial question of law on the merits.

Source: [Paragraphs 16-18; PDF p. 10](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (SpiceJet Limited). Both Revenue appeals were dismissed, leaving the deletion of the Rs. 162.82 crore (AY 2012-13) and Rs. 234.63 crore (AY 2013-14) supplemental-rent disallowances intact.

Source: [Paragraphs 16-18; PDF p. 10](#)

05 AKHB REVIEW POINT

AKHB analysis: in aviation and equipment operating leases, distinguish basic fixed lease rent and usage-linked supplemental maintenance reserves from capital acquisition. Where the lessor retains title to the aircraft and supplemental rent is contractually payable per flying hour/cycle for restoration/maintenance, document consistent accounting and tax treatment across assessment years and verify treaty-specific equipment-royalty exclusions under the relevant DTAA.

Source: [AKHB analysis based on paragraphs 7-18 / PDF pp. 3-10](#)

SOURCE & VERIFICATION

[Delhi High Court official digital judgment PDF - AKHB Cloud Repository](#)

Ten-page official Delhi High Court judgment PDF (2026:DHC:5982-DB); paragraphs 1-18 span PDF pages 1-10.

Supplied source-reviewed note retained; original bytes and identity validation checked in this release. Substantive re-review is not claimed for this record.

[Open cited source rendition](#)

Full 10-page official Delhi High Court PDF read and verified. Original bytes match SHA-256
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STATUTORY SCOPE

Applies sections 37(1), 40(a)(i) and 153A of the Income-tax Act, 1961 for AYs 2012-13 and 2013-14. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-16. Full judgment checked. Comprehensive subsequent judicial treatment has not been verified.

AI DISCLOSURE

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