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

ITA 539/2026 & ITA 540/2026

ITA 539/2026 and ITA 540/2026, order dated 23 July 2026 | 2026-07-23

FCCB redemption premium: revenue expenditure; spreading argument not raised below; Revenue appeals dismissed.

Income-tax Act, 1961: section 37

High Court of Delhi | 2-judge bench (Division Bench) | Dinesh Mehta | Rajneesh Kumar Gupta

Assessment years: 2006-07, 2007-08, 2008-09, 2009-10, 2010-11

Corrected subject and delay ruling

The earlier note incorrectly described aircraft supplemental rent. This order concerns FCCB redemption premium. The 1,080-day refiling delay in each appeal was condoned; dismissal followed consideration of the tax issue.

01 FACTS OF THE CASE

Revenue brought ITA 539/2026 and ITA 540/2026 against an ITAT order dated 28 December 2022. The source collectively identifies assessment years 2006–07 through 2010–11. The dispute concerned premium payable on redemption of Foreign Currency Convertible Bonds issued in financial year 2005–06 for five years and subsequently convertible into equity. In the ITAT passage reproduced by the Court, the AO had disallowed a premium deduction of Rs.28,59,78,667 as capital expenditure; the CIT(A) allowed it and the ITAT upheld that treatment. Revenue accepted before the High Court that the revenue character was settled, but argued that expenditure should be spread over five years rather than claimed in the first year.

Source: Paras.3–7; PDF pp.1–3

02 DISCUSSION BY THE HON'BLE COURT

The Court applied the settled treatment of expenditure incurred in issuing debentures or obtaining loans as revenue expenditure. Drawing on Havells India, India Cements and Madras Industrial Investment Corporation, it explained that the borrowing liability arises on issue, although payment may occur later; eventual convertibility does not by itself turn borrowing expenditure into share-capital expenditure. On timing, it referred to Jagatjit Industries: liability to pay premium arises in the issue year and could be proportionately spread over the maturity period. It also recorded that Revenue had not raised this spreading issue before the AO, CIT(A) or ITAT. The lengthy quotations describe the cited cases and must not be mistaken for additional SpiceJet transactions.

Source: Paras.8–10, including both paragraphs numbered 9; PDF pp.3–10

03 JUDICIAL DECISION

The Court found the legal issue already settled and no substantial question of law requiring fresh adjudication. Both Revenue appeals were dismissed and pending applications disposed of. At the outset, it had condoned the 1,080-day delay in refiling each appeal and disposed of the corresponding delay applications.

Source: Paras.1–2,10–12; PDF pp.1,10

04 OUTCOME / IN WHOSE FAVOUR

The ITAT's relief on the FCCB-premium dispute remained undisturbed. The dismissal was not for unexplained delay. The order does not supply a fresh computation or an appeal-wise allocation of the five listed assessment years.

Source: Paras.4–7,10–12; PDF pp.1–3,10

05 EXPERT COMMENTS

Separate character, accrual and timing — Revenue expenditure, an accrued liability and the year of deduction are distinct inquiries. This order discusses all three, but does not formulate an unrestricted right to deduct every multi-year premium entirely in year one. Its reference to proportionate spreading and the unraised ground must accompany any reliance on the dismissal.

Test the borrowing when issued — The reasoning treats borrowing as a liability and draws on authorities examining the instrument at issue. Future conversion into equity does not alone establish that borrowing costs are capital expenditure. Check the bond terms, premium obligation and business use before extending this reasoning to another financing arrangement. The order does not decide every possible convertible instrument.

Preserve the disputed timing ground below — The Court expressly noted that the spreading argument was absent at every earlier stage. Identify separately what the AO disallowed, what the CIT(A) decided and what was urged before the Tribunal. Do not turn this case-specific observation into a universal prohibition on appellate consideration of a legal ground.

Keep procedure and quoted facts distinct — The delay was condoned; the appeals then failed on the stated tax grounds. Amounts, Mauritius investments and professional fees in the Havells quotation are not SpiceJet facts. Use the common order for both dockets, but do not invent an allocation of its five assessment years. Later treatment remains unverified.

Source: Editorial analysis; paras.1–12, PDF pp.1–10

SOURCE & VERIFICATION

Delhi High Court official digital judgment PDF - AKHB Cloud Repository

Ten-page common order in two appeals. The source lists five assessment years collectively without a precise appeal-to-year allocation.

All ten original pages read and visually inspected; original hash verified. AI-assisted source correction.

Open cited source rendition

No neutral citation appears in the supplied source; docket and order date identify the decision. The source repeats paragraph number 9.

STATUTORY SCOPE

Section 37 and cited borrowing-cost authorities; no aircraft-rent, treaty or withholding-tax issue in this order.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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