Commissioner of Income Tax-I, Chennai v. M/s. TVS Motor Company Ltd.

T.C.(A). No. 330 of 2011

T.C.(A). No. 330 of 2011 (Mad HC, decided 05.01.2026) | 2026-01-05

Seven AY 2005–06 issues decided for TVS: repairs, interiors, R&D, entry tax, NPV settlement, ECB fees and agent commission.

Income-tax Act, 1961: sections 9(1)(vii), 31(1), 32, 35(2AB), 37(1), 40(a)(i), 41(1), 43B, 90, 195 and 260A | India-UK DTAA: Article 13(4)(c); India-Singapore DTAA: Article 12(4)(b)

High Court of Judicature at Madras | 2-judge bench (Division Bench) | Dr. Anita Sumanth, J. | Mummineni Sudheer Kumar, J.

Assessment years: 2005-06

ITAT finding on nature of ECB arrangement services set aside in paragraph 36, though ultimate deletion upheld under treaty 'make available' clause

On Question 6 (paragraphs 34-40, PDF pp. 16-20), the Division Bench expressly set aside the Tribunal's observation that ECB loan-processing services rendered by the UK and Singapore entities were non-technical, holding that the CIT(A)'s unchallenged finding that the services were technical had attained finality. However, the Court affirmed the deletion of the Rs. 6,62,70,751 section 40(a)(i) disallowance because technical knowledge or know-how was not 'made available' under Article 13(4)(c) of the India-UK DTAA and Article 12(4)(b) of the India-Singapore DTAA.

01 FACTS OF THE CASE

Revenue challenged ITAT Chennai C Bench’s order dated 21 December 2010 in ITA 1017/Mds/2009 for AY 2005–06 on seven questions: replacement dies and moulds; temporary office works of Rs.15,05,167; R&D work-in-progress deduction; entry-tax set-off; Karnataka sales-tax deferral prepayment discount recorded at Rs.36,97,26,960; ECB arrangement fees of Rs.6,62,70,751 paid to UK and Singapore entities; and foreign-agent commission of Rs.9,53,00,671. The ECB fees were paid without section 195 deduction. The NPV discount was claimed on capital account.

Source: Own paras.2–3,5–7,11,14,19–23,29–33,41; PDF pp.1–20

02 DISCUSSION BY THE HON'BLE COURT

Dies and moulds were treated as current repairs following the earlier TVS decision. Temporary office works were supported by the detailed CIT(A) findings and unchanged earlier-year treatment. R&D work-in-progress was accepted as covered by both parties. Entry-tax relief followed the accepted earlier decision, notwithstanding the Court's acknowledgment of possible merit in Revenue's section 43B submission. The NPV settlement involved no demonstrated remission or cessation; capital treatment was upheld following Balakrishna Industries. For ECB fees, the Court set aside the Tribunal's non-technical-services finding, but sustained treaty relief because expertise was not made available. Foreign-agent commission followed final earlier orders on unchanged facts.

Source: Own paras.4,8–18,25–28,34–43; PDF pp.3–21

03 JUDICIAL DECISION

All seven questions were answered for the assessee and the appeal was dismissed without costs. On ECB fees, the result rested on India–UK Article 13(4)(c) and India–Singapore Article 12(4)(b), read with section 90, while the adverse finding that the services were technical remained operative.

Source: Own paras.4,10,13,18,28,36,40,43–44; PDF pp.4–21

04 OUTCOME / IN WHOSE FAVOUR

The seven challenged reliefs remained effective for AY 2005–06. The dismissal does not turn every issue into a general exemption: several conclusions depended on accepted earlier-year treatment, and the ECB reasoning expressly corrected one Tribunal finding despite sustaining the monetary relief.

Source: Own paras.10,13,18,36,40,42–44; PDF pp.7–21

05 EXPERT COMMENTS

Demonstrate the character of each expenditure — For dies and moulds, the earlier decision treated replacement parts of existing machinery as current repairs. For office works, the itemised description supported temporary character. Preserve those distinct evidentiary routes: neither the word “replacement” nor a request for 100% depreciation establishes eligibility without examining what was replaced or constructed.

Use consistency with its factual limits — R&D relief was accepted as covered by both parties; entry-tax relief followed an earlier accepted decision despite the section 43B argument. Commission relied on unchanged facts and final earlier orders. Identify the earlier decision and demonstrate comparability rather than claim automatic immunity from reassessment of a different year’s facts. The commission years recorded are 1991–92, 1992–93 and 1994–95.

Distinguish NPV discharge from a waiver — The Court found no evidence of remission or cessation: the liability was discharged by its present value under the scheme. Preserve the scheme, settlement computation and payment proof. The source inconsistently abbreviates the discount in paragraph 23; use paragraph 20’s exact figure without importing the quoted Sulzer amounts or silently reconciling the discrepancy.

Separate technical character from making expertise available — The unchallenged CIT(A) finding that ECB services were technical had attained finality. Relief nevertheless survived because the borrower had not acquired the expertise to obtain future ECBs independently. Examine deliverables and the applicable treaty clause separately; do not describe the services as non-technical or extend this UK/Singapore holding to another treaty without checking its text.

Source: Editorial analysis; own paras.4–43; PDF pp.3–20

SOURCE & VERIFICATION

Madras High Court official judgment PDF - AKHB Cloud Repository

Twenty-two-page judgment; own paragraphs 1–44, with lengthy separately numbered precedent quotations.

All 22 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

AY 2005–06; issue-specific domestic and India–UK/India–Singapore treaty reasoning. Current treaty and statutory applicability are not independently verified.

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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