

The Indian Overseas Bank Ltd. v. Commissioner of Income-tax, Madras

Civil Appeal No. 615 of 1967

[1971] 1 SCR 348 | 1970-04-23

Development rebate: banking statutory reserve does not substitute for the prescribed development-rebate reserve.

Indian Income-tax Act, 1922: section 10(2)(vi-b), proviso (b) | Banking Companies Act, 1949: section 17

3-judge bench | J. C. Shah, J. | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: 1959-60

Historical statutory context

Historical Indian Income-tax Act, 1922 development-rebate requirement for AY 1959-60. This is not a ruling on current reserve requirements or an inferred 1961/2025 provision mapping.

Scope of decision

The Court decided the separate statutory purposes and required accounting treatment of two reserves. A sufficient amount in a general banking reserve did not establish compliance with the development-rebate condition.

01 FACTS OF THE CASE

For AY 1959-60, relating to calendar year 1958, the bank claimed development rebate of Rs. 1,37,836. It transferred Rs. 6 lakh from profit and loss to a reserve, an amount sufficient for both the banking-law reserve and development-rebate requirement, but admittedly created no separate development-rebate reserve. The tax authorities and Madras High Court rejected the claim. The bank appealed by certificate; Revenue did not appeal the separate question decided against it.

Source: [SCR pp. 348-349](#) / [PDF pp. 1-2](#)

02 DISCUSSION BY THE HON'BLE COURT

Creating the prescribed reserve was a condition precedent to development rebate. The section 17 banking reserve was created from net profits and served a different statutory purpose. The development-rebate reserve required a debit before the profit and loss account was made up and a credit earmarked for business use during the specified ten-year period. The two reserves were independent. Required entries were substantive safeguards, not an idle formality; an adequate aggregate transfer could not replace the prescribed reserve.

Source: [SCR pp. 350-351 / PDF pp. 3-4](#)

03 JUDICIAL DECISION

The Court answered negatively whether compliance with section 17 of the Banking Companies Act was sufficient compliance with the development-rebate reserve requirement. As the bank had not complied with section 10(2)(vi-b) and the relevant conditions, it was not entitled to the claimed allowance. The appeal was dismissed with costs.

Source: [SCR p. 351 / PDF p. 4](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue succeeded on the development-rebate issue in dispute. The separate High Court answer favourable to the bank was not before the Court because Revenue had not appealed it.

Source: [SCR pp. 349, 351 / PDF pp. 2, 4](#)

05 AKHB REVIEW POINT

AKHB analysis: in historical rebate files, test the actual reserve entry, timing and permitted use against the governing statutory condition. Do not equate sufficient funds with the required earmarked reserve merely because both appear in equity. The judgment does not decide whether a later corrective entry would cure a defect; any such argument needs its own applicable statutory and precedent analysis.

Source: [AKHB analysis based on SCR pp. 349-351 / PDF pp. 2-4](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Complete four-page SCR report read, including substantive judgment and operative order.

[Open cited source rendition](#)

Full source PDF read and SHA-256 matched the source catalogue. Public eSCR mirror; not a certified copy.

Distinct docket and operative order verified against the suggested published match; title/date similarity was not accepted as identity.

Decision date is 23 April 1970; SCR volume is 1971. These are not inconsistent dates.

The report contains typographical/OCR variants in the provision label; substantive reasoning and quoted reserve condition concern section 10(2)(vi-b).

No identity with N.V. Shanmugham & Co., CA294-295/1967, decided the same day; that decision concerns receivers and association-of-persons assessment.

STATUTORY SCOPE

Historical Indian Income-tax Act, 1922 development-rebate requirement for AY 1959-60. This is not a ruling on current reserve requirements or an inferred 1961/2025 provision mapping.

LATER TREATMENT

Source checked 2026-10-10. Subsequent treatment has not been comprehensively verified. No current-law or citator clearance is represented.

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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