

# National Hydroelectric Power Corpn. Ltd. v. Commissioner of Income Tax

Civil Appeal No. 6 of 2010

[2010] 1 SCR 16 | 2010-01-05

**Whether the particular advance-against-depreciation tariff component must be added back as a reserve under section 115JB Explanation 1(b).**

115JB Explanation 1(b)

Two-judge bench | S.H. Kapadia, J. | Aftab Alam, J.

Assessment years: 2001-02

## Specific AAD mechanism and MAT clause only

The decision rejects a reserve add-back for AAD under the stated tariff-adjustment and accounting facts for AY 2001-02. It does not create a general exemption for all advance receipts or settle every ordinary-income/later tariff question. The reported AAR proceeding year conflicts with the ruling date. Current law and comprehensive later treatment are unverified.

## 01 FACTS OF THE CASE

For AY 2001-02, the government-owned electricity generator received tariffs containing advance against depreciation (AAD). The 26 May 1997 mechanism provided additional cash flow when normal depreciation fell below the scheduled loan instalment, subject to the stated cap; the advance would reduce depreciation included in later tariffs after repayment. The company excluded that component from sales reaching its profit-and-loss account. The AAR treated the exclusion as a reserve requiring addition to book profit (paragraphs 2–8).

Source: See the proposition-specific paragraph and PDF-page references below.

## 02 DISCUSSION BY THE HON'BLE COURT

The Court read Explanation 1(b) with its qualifying language. Two conditions had to coexist for the asserted add-back: a debit to the profit-and-loss account and carrying the amount so debited to a reserve. Reducing AAD from sales did not create such a debit, and the component did not enter net-profit determination in that form (paragraphs 9–11).

Substance also mattered. AAD was not an appropriation of profits available for an uncertain purpose. From inception it was subject to an inbuilt obligation of adjustment against later tariff depreciation, reducing future tariffs; the balance would run down over the plant's useful life. The Court described it as advance income and a timing difference rather than a reserve, noting the accounts' recoupment treatment (paragraph 11).

Source: See the proposition-specific paragraph and PDF-page references below.

### 03 JUDICIAL DECISION

The assessee's appeal was allowed, the impugned AAR ruling set aside, and Explanation 1(b)'s reserve add-back held inapplicable to this AAD. No costs or remand. The operative ruling is the MAT book-profit issue, not a general exemption for electricity receipts (paragraph 12).

Source: See the proposition-specific paragraph and PDF-page references below.

### 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal allowed; AAR ruling set aside; no costs

Final on the identified AAD reserve add-back under the historical MAT provision

Depends on the notified adjustment mechanism and accounting facts. It does not establish that every deferred tariff receipt is excluded under every tax provision, certify an ordinary-income computation for another year or decide later regulatory schemes.

Source: See the proposition-specific paragraph and PDF-page references below.

### 05 AKHB REVIEW POINT

Trace the actual accounting entry and the binding future adjustment, rather than relying on an advance or reserve label. Both the absence of the relevant profit-and-loss debit and the predetermined tariff adjustment supported this result. Keep the particular MAT add-back separate from any question under ordinary income computation, different accounting standards or a later tariff order.

The historical provision, tariff notification and facts must be checked for the actual year. Nothing in this note certifies current MAT applicability or an automatic counterpart under the Income-tax Act, 2025.

Source: See the proposition-specific paragraph and PDF-page references below.

### PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

**Topic:** Identity and conflicting AAR recital

**Source url:** [Open cited source](#)

**Pdf pages:** 1; 2; 3

**Paragraphs:** Cover; jurisdiction; 1–3

**Source role:** reported metadata and judicial text

2.

**Topic:** Tariff and accounting facts

**Source url:** [Open cited source](#)

**Pdf pages:** 3; 4

**Paragraphs:** 4–8

**Source role:** judicial text

3.

**Topic:** Clause conditions and timing difference

**Source url:** [Open cited source](#)

**Pdf pages:** 4; 5; 6

**Paragraphs:** 9–12

**Source role:** judicial text

4.

**Topic:** Operative relief

**Source url:** [Open cited source](#)

**Pdf pages:** 6

**Paragraphs:** 12

**Source role:** judicial text

#### **ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS**

**115jb explanation 1(b):** Reserve add-back under the historical book-profit provision; no independent ruling on every ordinary-income or later tariff issue

#### **JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS**

S.H. Kapadia, J.

#### **ACT IDENTIFIED IN THE REVIEWED SOURCE**

Income-tax Act, 1961

#### **SOURCE & VERIFICATION**

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 6 PDF pages; SHA-256

8a5d7a1bfe2ef204fe3e8d65044603920d55fa7104eb4a21ec8e7df019fa2d73. Original bytes preserved.

Judicial paragraphs 1–12 on physical pages 3–6 (SCR 18–21). Pages 1–2 and opening of 3 are editorial/report material. No adjacent judgment.

[Open cited source rendition](#)

The jurisdiction line prints a 17 December 2004 ruling in AAR 550 of 2010, an internally inconsistent proceeding-year recital. No corrected AAR year is invented.; The AAR's description of AAD as income and a reserve is quoted background, not the Supreme Court's adopted reasoning.; The later financial-statement example beginning 2004-05 is evidence of recoupment, not an additional assessment year adjudicated.; The statement about an ordinarily 30-year plant life is contextual, not a depreciation-rate or universal useful-life ruling.

#### **STATUTORY SCOPE**

Current statutory equivalence and 2025 Act applicability have not been verified.

**LATER TREATMENT**

Source checked 2026-10-04. No comprehensive subsequent judicial or statutory audit. Any actually checked comparison is narrowly identified; no current-law or 2025-Act certification.

**IDENTIFIED SOURCE LINKS**

[reported judgment - PDF pages: 6](#)

SHA-256: 8a5d7a1bfe2ef204fe3e8d65044603920d55fa7104eb4a21ec8e7df019fa2d73

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