

M/s. Vijaya Bank v. Commissioner of Income Tax and Anr.

Civil Appeal Nos. 3286-3287 of 2010

[2010] 4 S.C.R. 721 | 2010-04-15

Whether a bank that debited its profit-and-loss account and reduced the corresponding loan/debtor assets had actually written off bad debts, or also had to close every individual debtor account to obtain section 36(1)(vii) deduction.

36(1)(vii) | 36(1)(vii) Explanation | 41(4)

Two-judge bench | S.H. Kapadia, J. | Swatanter Kumar, J.

Assessment years: 1993-94, 1994-95

01 FACTS OF THE CASE

The two appeals concerned AYs 1993-94 and 1994-95. For AY 1994-95 the Assessing Officer disallowed Rs. 7,10,47,161 reduced from loans and advances/debtors, treating the entries as a mere provision rather than an actual write-off under section 36(1)(vii) and its Explanation (paragraph 3).

CIT(A) rejected the asserted need to close every individual debtor account. The Tribunal found that the bank had debited the profit-and-loss account, then debited the provision account and reduced the corresponding loan/debtor assets, so the provision account was obliterated and year-end assets were shown net of the impugned bad debt. The High Court nevertheless reversed, reasoning that the retrospective Explanation made the earlier Gujarat authority unavailable (paragraphs 3-4).

The dispute before the Supreme Court was the accounting substance of that write-off and the additional demand to close each customer account. Revenue also feared double deductions and untaxed later recoveries; there was no finding that the bank had actually taken the deduction twice (paragraphs 5, 8-9).

Source: [reported judgment / paragraphs 3-5 / PDF pages 5, 6, 7 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court relied on the explanation of write-off in Southern Technologies. With the Explanation effective from 1 April 1989, a mere provision for doubtful debts is outside section 36(1)(vii). A debit to the profit-and-loss account accompanied only by a liability-side reserve is different from reducing the debtor asset. The passage reproduced in paragraph 6 is attributed to Southern Technologies, not to T.R.F. Ltd. (paragraphs 6-7).

Revenue was correct that a profit-and-loss debit alone did not suffice. But the bank had gone further: it simultaneously reduced loans and advances/debtors by the corresponding amount, extinguishing the provision in the manner found by the Tribunal and showing year-end assets net of the bad debt. That was an actual write-off on these facts. The High Court overlooked this additional accounting step (paragraph 7).

Section 36(1)(vii) applied to both banking and non-banking businesses. Closure of every individual debtor account was not an added statutory precondition where the requisite write-off had occurred. A concern that the deduction might be claimed twice could not replace an actual finding. The Assessing Officer could seek individual ledger details on reasonable grounds to investigate duplication. The Court also noted the bank's recovery suits and the difficulties that closure of individual accounts could create for those claims (paragraph 8).

The possibility of later recovery did not defeat the present write-off. The bank's head-office accounts showed recoveries offered for tax, branch and head-office accounts had to reconcile, and section 41(4) empowered assessment of the relevant excess recovered after an allowed bad-debt deduction. A tax write-off did not therefore make later recovery invisible to tax (paragraph 9).

The actual issue was the form and substance of accounting write-off. This judgment does not examine or remove section 36(2), nor decide the independent scope of deductions for provisions under section 36(1)(viiia). Those questions should not be treated as decided merely because the taxpayer was a bank.

Source: [reported judgment / paragraphs 6-9 / PDF pages 7, 8, 9, 10, 11, 12 / judgment](#)

03 JUDICIAL DECISION

Both assessee appeals were allowed without costs. The Supreme Court upheld the Tribunal judgment of 31 July 2003 and set aside the High Court judgment. It held the accounting entries constituted an actual write-off and rejected compulsory closure of each individual debtor account; it did not remit this question for further findings (paragraphs 7-10).

Source: [reported judgment / paragraphs 10 / PDF pages 12 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee bank

Both appeals allowed; Tribunal judgment upheld; High Court judgment set aside; no costs

Final allowance on the actual-write-off accounting issue

Profit-and-loss debit plus the corresponding asset reduction was found on the record. Mere provisions remain excluded from section 36(1)(vii); additional section 36(2) conditions and any separately applicable bank-provision regime are not displaced.

Source: [reported judgment / paragraphs 7-10 / PDF pages 9, 10, 11, 12 / judgment](#)

05 AKHB REVIEW POINT

Trace both sides of the accounting entry. Retain the profit-and-loss debit, provision-account movement, loan/debtor asset reduction and closing balance-sheet reconciliation. A reserve on the liabilities side, or a tax-computation description calling it written off, does not reproduce the facts accepted here. Preserve debtor-level records even where closing each individual account is unnecessary.

Maintain a year-by-year deduction and recovery register so that the same debt is not deducted twice and recoveries are properly tested under section 41(4). Recovery action and tax write-off serve different purposes; the judgment did not require abandonment of recovery rights.

Do not treat this accounting holding as dispensing with section 36(2). The already-reviewed Khyati Realtors judgment (2022), paragraphs 12-17, separately confirms that the debt must satisfy the relevant income-computation or ordinary-course banking/money-lending condition as well as actual write-off. That is a bounded qualification, not a full later-treatment audit. Check any section 36(1)(viiia) interaction and the law for the relevant year independently.

Source: [reported judgment / paragraphs 6-9 / PDF pages 8, 9, 10, 11, 12 / judgment](#); [bounded later authority / paragraphs 12-17 / PDF pages 7, 8, 9, 10, 11 / bounded later authority](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

36(2)

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 36(1)(vii); Explanation

Role: Actual-write-off requirement

Basis: Paragraphs 2-8 distinguish asset reduction from a mere liability-side provision; Finance Act, 2001 Explanation effective 1 April 1989.

2.

Act: Income-tax Act, 1961

Section: 41(4)

Role: Subsequent recovery safeguard

Basis: Paragraph 9 explains taxation of recovered amounts within the statutory formula.

3.

Act: Income-tax Act, 1961

Section: 36(2)

Role: Separate qualification; not adjudicated here

Basis: Not discussed in Vijaya's judicial text. The bounded later Khyati check, paragraphs 12-17, confirms statutory qualifying conditions are additional to actual write-off.

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: 12 PDF pages; SHA-256

648fa72f4efdcdffbabbac65d8366f1a14634dbfb145462a8f4f6f1d67c553faa. Original bytes preserved.

Editorial headnote and references on physical pages 1-4; jurisdiction/appearances and beginning of judgment on page 4.

Complete judgment paragraphs 1-10 on physical pages 4-12, printed SCR pages 724-732. One judgment disposes of both appeals.

[Open cited source rendition](#)

Both appeal numbers and both AYs are verified; no unsupported one-to-one assignment is made.

Rs. 7,10,47,161 belongs to AY 1994-95; no amount is supplied for AY 1993-94.

The quotation in paragraph 6 is Southern Technologies, not TRF.

A profit-and-loss debit alone is not the accepted write-off; simultaneous asset reduction is essential to the finding.

Section 36(2) and section 36(1)(viia) interaction are not independently adjudicated in this source.

The Khyati later-source check is narrow and does not alter overall later_treatment=not_verified.

Reported SCR citation verified on source cover or running header. Catalogue neutral citation is not independently verified and is not adopted.

Paragraph 3 expressly identifies AYs 1993-94 and 1994-95; Rs. 7,10,47,161 is the stated disallowance for AY 1994-95 only. No separate amount for AY 1993-94 or one-to-one appeal/year mapping is supplied.

STATUTORY SCOPE

Historical Income-tax Act, 1961 provisions applied or discussed in this judgment; any identified later qualification is a bounded check, not a full statutory-version audit.

No automatic Income-tax Act, 2025 crosswalk, comprehensive later-treatment audit or present-law certification.

LATER TREATMENT

Source checked 2026-10-04. Subsequent judicial treatment and later statutory changes have not been comprehensively verified. Any separately identified authority is a bounded check, not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 12](#)

SHA-256: 648fa72f4efdcdfbabbac65d8366f1a14634dbfb145462a8f4f6f1d67c553faa

[bounded later authority - PDF pages: 15](#)

SHA-256: d2a63423236ecb4d2ebd7100f8f644e284a2b4d0265dd83e7deac4090dd48620

[Related note: Pr. Commissioner of Income Tax 6 v. Khyati Realtors Pvt. Ltd.](#)

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