

The Principal Commissioner of Income Tax-8 v. M/s Yes Bank Ltd.

Civil Appeal No. 3148 of 2019

[2019] 5 SCR 6 | 2019-03-15

Whether the High Court could dismiss the Revenue's section 260A appeal after hearing both parties without framing substantial questions or deciding the section 35D applicability issue identified in the case.

260A | 35D | 263

Two-judge bench; one judgment delivered by Abhay Manohar Sapre, J. | Abhay Manohar Sapre, J. | Dinesh Maheshwari, J.

Assessment years: 2007-08

IMPORTANT: SECTION 35D MERITS AND COMPANION-APPEAL STATUS UNDECIDED

This 2019 judgment concerns section 260A appellate disposal. It does not decide that Yes Bank was an industrial undertaking or entitled to the AY 2007-08 section 35D deduction. Joint High Court hearing was directed only if the other appeal was pending. A later 2011 compilation annotates a 1 April 2009 statutory change; exact applicable-year/current law, comprehensive later treatment, post-remand outcome and 2025 mapping remain unverified. The primary source is an unchanged eSCR mirror report, not an independently authenticated signed original.

01 FACTS OF THE CASE

For AY 2007-08, the question arose whether Yes Bank could claim a deduction under section 35D as an industrial undertaking. The Bank asserted that it qualified; the Supreme Court did not decide that characterization. The Assessing Officer passed an order on 31 October 2009. Proceedings before the Commissioner under section 263 followed and resulted in an adverse order dated 14 November 2011. The retained report does not supply the deduction quantum, the detailed expenditure categories, the terms of the assessment order or a separate decision on the jurisdictional requirements of section 263. [SCR 8; paras 4-6]

The Bank appealed to the ITAT, which allowed its appeal on 5 December 2014. The Revenue then filed Bombay High Court ITA 599/2015 under section 260A. The High Court dismissed that appeal on 1 August 2017 after hearing both parties. The Revenue obtained special leave in the Supreme Court, giving rise to Civil Appeal 3148/2019. The official auxiliary judgment heading and one-page record of proceedings identify the originating SLP(C) 7118/2018. [SCR 7-8; jurisdiction recital and paras 1-2, 7-8; official parallel heading/record]

The Supreme Court was also told that the same section 35D applicability issue was pending before the High Court in an appeal by the Bank. The judgment does not identify that other appeal by number, assessment year or order date. Its direction to hear the appeals together is conditional upon that other appeal being pending; this report is not proof of the companion proceeding's later status or outcome. [SCR 9-10; paras 15 and 17]

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

02 DISCUSSION BY THE HON'BLE COURT

The Court gave three linked reasons for remand. First, no substantial question of law had been framed even though the High Court heard the appeal bipartite; the judgment distinguished this from a dismissal in limine on an express no-substantial-question ground. Second, the High Court left issues undecided by saying that their decision was unnecessary. Third, although the High Court itself had identified section 35D applicability as the principal issue, it had not decided it. [SCR 9; paras 11-13]

The Court held that a proper substantial question concerning section 35D applicability, together with the other questions arising in the case, should have been formulated and answered according to law. The Supreme Court did not supply a verbatim numbered list of questions, decide that a bank is or is not an industrial undertaking, allow the deduction on its merits or decide a general section 263 proposition. The defect concerned the manner in which this statutory appeal was disposed of. [SCR 9; para 14, read with para 18]

The direction for coordinated High Court consideration was also bounded. Paragraph 15 records what was brought to the Court's notice and says that, if so, both appeals should be decided together. Paragraph 17 repeats the qualification if pending. It does not dispose of the unidentified assessee appeal or transform it into a second Supreme Court appeal. [SCR 9-10; paras 15-17]

Paragraph 18 expressly reserves all merits and requires fresh disposal uninfluenced by observations both in the set-aside High Court order and in the Supreme Court's order. The selected 2011 statutory compilation independently distinguishes the substantial-question threshold, formulation, hearing and reasoned determination; its subsection (4) proviso preserves the power to hear an additional substantial question for recorded reasons. That context prevents the procedural ruling from becoming a claim that mere notice or a hearing inevitably establishes a substantial question in every case. [SCR 10; para 18; DOR compilation physical 914-915]

The same compilation's section 35D annotation records omission of industrial with effect from 1 April 2009. Because this case concerns AY 2007-08, a later consolidated wording cannot silently resolve the Bank's historical eligibility. The annotation is a bounded version caution only: the exact applicable-year enacted text and the complete amendment chain were not authenticated in this review, and the Supreme Court's own merits reservation remains controlling for this note. [DOR compilation physical 272-273, notes 95/99; SCR 8 para 5 and SCR 10 para 18]

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

03 JUDICIAL DECISION

Civil Appeal 3148/2019 was allowed and the Bombay High Court's 1 August 2017 order set aside. The Revenue's appeal was remanded for fresh merits disposal after proper substantial question(s) were framed, together with the other appeal if it remained pending. The High Court was to proceed uninfluenced by observations in either the impugned order or the Supreme Court's order. The Court expressed no view on the underlying merits. No costs sum or costs direction is stated in the retained report; the separately read official record disposes of pending applications, if any. [SCR 9-10; paras 15-18; official 15 March 2019 record]

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the procedural appeal only

Allowed; High Court order set aside; fresh question formulation and merits disposal, with the other High Court appeal only if pending

Final reasoned Supreme Court determination of section 260A appellate procedure; underlying AY 2007-08 section 35D and section 263 merits expressly open

The Revenue obtained a fresh statutory appellate adjudication of the identified questions. The Supreme Court did not decide the Bank's industrial-undertaking status, section 35D deduction entitlement or the merits of the Commissioner's revision. The companion appeal's current status and the eventual post-remand outcome remain unverified.

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

05 AKHB REVIEW POINT

Separate the operative section 260A ruling from the unresolved tax claim. This judgment supports the need to formulate and decide the material substantial questions in the identified appeal; it is not an authority granting section 35D deductions to banks. Preserve the conditional nature of the connected-appeal direction and verify the applicable-year wording before relying on a later compilation. In particular, do not substitute a post-1 April 2009 omission of industrial for the statute relevant to AY 2007-08 without examining the proper historical text and later proceedings.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: Not expressly addressed

Monetary relief: No Supreme Court quantification, payment, refund or sustained tax liability.

INDIVIDUAL PROCEEDING OUTCOMES

1.

Case number: Assessing Officer order; number not supplied

Decision date: 2009-10-31

Role: Assessment-stage order

Outcome: Led to proceedings before the Commissioner under section 263; the retained report does not state detailed terms or a quantified deduction.

Source: SCR 8; para 6

2.

Case number: Commissioner section 263 proceedings; number not supplied

Decision date: 2011-11-14

Role: Revision-stage order

Outcome: An adverse order against the Bank, later appealed to the ITAT. No general section 263 jurisdiction ruling is made by the Supreme Court.

Source: SCR 8; para 6

3.

Case number: Bank's ITAT appeal; number not supplied

Decision date: 2014-12-05

Role: Assessee's Tribunal appeal

Outcome: Allowed by the ITAT, leading to the Revenue's High Court appeal.

Source: SCR 8; para 7

4.

Case number: Bombay High Court ITA No. 599 of 2015

Decision date: 2017-08-01

Role: Revenue's section 260A appeal

Outcome: Dismissed after hearing both parties; the order was set aside and the appeal remanded.

Source: SCR 8-10; paras 2, 8 and 17

5.

Case number: SLP(C) No. 7118 of 2018

Role: Originating special leave petition, identified from official auxiliary web text

Outcome: Leave granted; Civil Appeal 3148/2019 allowed in terms of the reportable judgment. Pending applications, if any, disposed of in the official pronouncement record.

Source: Official SCI heading and one-page 15 March 2019 record

6.

Case number: Civil Appeal No. 3148 of 2019

Decision date: 2019-03-15

Role: Revenue's Supreme Court appeal

Outcome: Allowed; High Court order set aside; fresh question formulation and merits disposal directed, with no opinion on the tax merits.

Costs: No express costs direction in the retained judgment.

Source: SCR 9-10; paras 10-18

7.

Case number: Separate Bank appeal in the High Court; unidentified in the judgment

Role: Reported related proceeding, not a second Supreme Court appeal

Outcome: To be heard with the remitted appeal if pending. No disposition or continuing pendency is established by this review.

Source: SCR 9-10; paras 15 and 17

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Label: Report identity, editorial headnote and jurisdiction recital

Source url: [Open cited source](#)

Pdf pages: 1; 2

2.

Label: Assessment and appellate history; SCR 8, paras 1-8

Source url: [Open cited source](#)

Pdf pages: 3

3.

Label: Three reasons, formulation duty and conditional connected-appeal direction; SCR 9, paras 9-16

Source url: [Open cited source](#)

Pdf pages: 4

4.

Label: Allowed appeal, conditional remand and express merits reservation; SCR 10, paras 17-18

Source url: [Open cited source](#)

Pdf pages: 5

QUESTIONS TO BE FORMULATED BY THE HIGH COURT ON REMAND

1.

Question: A properly formulated substantial question on the applicability of section 35D to the Bank, together with other substantial questions arising in the appeal.

Status: To be formulated and answered by the High Court; no verbatim numbered set was supplied by the Supreme Court.

Source: SCR 9-10; paras 14 and 17

QUANTIFICATION AND MONETARY LIMITS

No disputed addition, deduction amount, tax demand, interest, penalty or costs sum is quantified in the retained Supreme Court report. No amount from a different assessment year or a search-result excerpt is imported.

REPORTED SOURCE ANOMALIES AND THEIR LIMITS

Physical pages 1-2/SCR 6-7 contain the editorial headnote and the jurisdiction/counsel recital; judicial text starts at physical page 3/SCR 8 and ends at physical page 5/SCR 10, paragraphs 1-18. No adjacent judgment is included.; The parenthetical reference to para 6 in judgment paragraph 12 is read in its context as referring to the High Court order; paragraph 13 expressly identifies the High Court's paragraph 6. The unseen High Court passage is not reconstructed.; The words if that be so and if pending are visible in the primary images. They are preserved as conditions, not normalized into a finding that another appeal remains pending today.; The assessment year printed 2007-2008 is rendered as 2007-08 for consistency without changing the year. Marginal A-H letters and running headers are layout, not judicial text.; Divya Pandey is the reporter credit. There is one opinion; the report does not authenticate handwritten or digital signatures.; The frozen catalogue identifier 2019INSC392 is not printed in the report; the verified printed citation is [2019] 5 SCR 6. Title, date, Civil Appeal number and exact source hash bridge the two representations.

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

260A supplies the operative appellate duty of proper question formulation and decision.; 35D eligibility, including the Bank's asserted industrial-undertaking character, is the unresolved merits issue to be considered on remand.; 263 identifies the Commissioner's adverse revision-stage order in the history; no general holding on section 263 jurisdiction is delivered.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Abhay Manohar Sapre, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY CHECKS AND THEIR LIMITS

1.

Source: Department of Revenue-hosted Taxmann Income-tax Act 2011 compilation

Url: [Open cited source](#)

Access date: 2026-10-06

Version: 2011 compilation, title leaf verified at physical page 2

Pinpoint: Physical pages 914-915; printed 1.873-1.874

Result: The displayed section 260A(1) requires a substantial question of law; (2)(c) concerns the memorandum; (3) requires judicial formulation when the Court is satisfied; (4) governs the hearing and preserves the reasoned additional-question proviso; (5) calls for a reasoned decision and permits costs. The historical NTT words are bracketed and footnote 46 describes a future-notified insertion in that edition, so they are not presented as authenticated operative 2019/current text.

Status: bounded historical text and images verified

Limits: Selected historical 2011 compilation pages only. No complete reading of all 1,251 pages or all section 35D subsections; no exact AY 2007-08/2019 enacted-text authentication, complete amendment chain, present-law certification or 2025 mapping. The stopped departmental section-260a-26 endpoint was not revisited or obtained by an alternate route.

2.

Source: Department of Revenue-hosted Taxmann Income-tax Act 2011 compilation

Url: [Open cited source](#)

Access date: 2026-10-06

Version: 2011 compilation; not the exact enacted text for AY 2007-08

Pinpoint: Physical pages 272-273; printed 1.231-1.232, amendment annotations 95 and 99

Result: The opening of section 35D concerns amortisation of specified preliminary expenses. The compilation expressly annotates omission of industrial by the Finance Act, 2008 with effect from 1 April 2009. That later wording cannot be silently projected into the disputed earlier assessment year or used to decide the Bank's eligibility, which the Supreme Court left open.

Status: bounded historical opening and amendment annotation verified

Limits: No independently authenticated Finance Act 2008 Gazette or complete historical statutory chain was obtained. The annotation is a version caution, not a judicial answer to the remitted issue.

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Status: potential later official itat lead not verified

Searched on: 2026-10-06

Source: Official Income Tax Appellate Tribunal search result

Url: [Open cited source](#)

Title: Yes Bank Limited, ITA Nos. 3498-3500 and 3236-3238/Mum/2018; search result labels AYs 2011-12 to 2013-14

Finding: The official search excerpt concerns section 35D/37 and quotes earlier-year material. Opening the full official document returned Internal Error. No complete judicial text, decision date, holding or treatment of this 15 March 2019 Supreme Court decision was verified.

Read bounds: Search-result excerpt only; the displayed Page 22 label is not a verified total page count or a page-image read.

Limits: No raw retry, PDF retention, source hash, image claim or inferred treatment. Different assessment years and quoted earlier decisions must not be merged into the 2019 Supreme Court facts.

Stop: Full web open failed; no further acquisition attempted.

2.

Status: bounded search limits

Scope: Official SCI/Bombay/Delhi High Court/ITAT party-name, section 260A/35D and docket searches, with broader searches used for leads only.

Finding: A 27 February 2019 Bombay High Court search excerpt predates the Supreme Court judgment; it was not authenticated as the unidentified companion appeal. Other 2024 same-bank tribunal leads were not adopted without a verified official full text. No target-specific later application, distinction, overruling or post-remand outcome is certified.

Limits: Not a comprehensive citator or current-good-law search.

MAJORITY, DISSENT AND OPERATIVE COURT ORDER

One judgment of the Court; no separate concurrence or dissent. The reporter credit is not an additional opinion.

PDF TEXT-ONLY SOURCE CHECKS AND READING LIMITS

1.

Kind: official parallel judicial web text

Source role: auxiliary only

Title: The Principal Commissioner of Income Tax-8 v. M/s Yes Bank Ltd., official SCI rendition

Url: [Open cited source](#)

Source url: [Open cited source](#)

Source format: web extracted pdf text

Reported web pdf pages: 7

Reported web text positions read: 1; 2; 3; 4; 5; 6; 7

Read bounds: Complete displayed judicial text, paragraphs 1-18 plus heading and typed closing, web lines 0-115, reported PDF positions 1-7. No raw PDF or images.

Finding: The heading identifies SLP(C) No. 7118 of 2018. The text preserves the conditional joint High Court hearing and leaves section 35D merits open, consistently with the frozen report.

Raw source retained: False

Raw pdf retained: False

Source file: Not stated in the reviewed record

Sha256: Not stated in the reviewed record

Source sha256: Not stated in the reviewed record

File bytes: Not stated in the reviewed record

Physical text pages read:

Physical image pages read:

Full displayed judicial web text read: True

Full document read: False

All document images read: False

Page images read: False

Pdf pages basis: Page count and positions reported by the web tool; no locally retained raw PDF or image verification.

Web response observed at utc: 2026-10-06T09:47:14Z

Web response time basis: Actual tool-response wall-clock notice, not an invented PDF acquisition time.

Reading completion recorded at utc: 2026-10-06T10:03:02.897940+00:00

Current law certification: False

Frozen corpus ownership or classification change: False

Limitation: Auxiliary text corroboration only. It is neither a new frozen asset nor a second primary owner; typed closing names or a reference to a signed judgment do not authenticate signatures.

2.

Kind: official ancillary record of proceedings web text

Source role: auxiliary only

Title: Yes Bank, Supreme Court record of proceedings on pronouncement, 15 March 2019

Url: [Open cited source](#)

Source url: [Open cited source](#)

Source format: web extracted pdf text

Reported web pdf pages: 1

Reported web text positions read: 1

Read bounds: Complete displayed one-page record, web lines 0-25, reported PDF position 1; no raw PDF or page image.

Finding: Leave was granted and the appeal allowed in terms of the reportable judgment. Pending applications, if any, were disposed of. No particular application number or separate costs award is supplied.

Raw source retained: False

Raw pdf retained: False

Source file: Not stated in the reviewed record

Sha256: Not stated in the reviewed record

Source sha256: Not stated in the reviewed record

File bytes: Not stated in the reviewed record

Physical text pages read:

Physical image pages read:

Full displayed judicial web text read: True

Full document read: False

All document images read: False

Page images read: False

Pdf pages basis: Page count and positions reported by the web tool; no locally retained raw PDF or image verification.

Web response observed at utc: 2026-10-06T09:47:14Z

Web response time basis: Actual tool-response wall-clock notice, not an invented PDF acquisition time.

Reading completion recorded at utc: 2026-10-06T10:03:02.897940+00:00

Current law certification: False

Frozen corpus ownership or classification change: False

Limitation: Auxiliary text corroboration only. It is neither a new frozen asset nor a second primary owner; typed closing names or a reference to a signed judgment do not authenticate signatures.

RETAINED PDF SOURCE CHECKS AND READING LIMITS

1.

Kind: historical statutory compilation

Source role: auxiliary only

Title: Department of Revenue-hosted Taxmann Income-tax Act 2011 compilation

Url: [Open cited source](#)

Source url: [Open cited source](#)

Source format: retained pdf selected text and images

Source file:

batch_aaestate_rashtradoot_fresh_review/auxiliary/DOR_IT_Act_English_2011_compilation.pdf

Sha256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

Source sha256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

File bytes: 8394755

Pdf pages: 1251

Physical text pages read: 2; 272; 273; 914; 915

Physical image pages read: 2; 272; 273; 914; 915

Full document read: False

All document images read: False

Complete section35d read: False

Read bounds: Five selected full physical pages: 2 (2011 title), 272-273 (printed 1.231-1.232; section 35D opening, continuation and amendment notes 95/99), and 914-915 (printed 1.873-1.874; displayed section 260A and its annotations).

Reading started at utc: 2026-10-06T09:51:03.348256+00:00

Reading completed at utc: 2026-10-06T09:51:57.221429+00:00

Raw source reused not recopied: True

Version limit: Selected historical 2011 compilation pages only. No complete reading of all 1,251 pages or all section 35D subsections; no exact AY 2007-08/2019 enacted-text authentication, complete amendment chain, present-law certification or 2025 mapping.

Official web access: The current official DOR URL was opened and reported a 1,251-page PDF; the current network PDF was not downloaded or hash-compared with the separately verified retained original.

Current law certification: False

Frozen corpus ownership or classification change: False

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256

1251d7e37fe4dcdd9a7b76a6effc45d5648a5cd150e867265f3d56e165de03db. Original bytes preserved. Physical3-5, SCR8-10, paragraphs1-18; physical1-2 contain reporter headnote and jurisdiction/counsel details. Complete report inspected.

Open cited source rendition

all frozen primary text and image pages read
headnote judgment and reporter credit separated
statutory appellate finality separated from tax merits
all stated proceedings and costs silence recorded
no quantum imported from other years
official web text has no retained pdf hash or image claim
bounded historical statute check only
target specific later treatment and post remand outcome unverified
no2025 mapping claim
author eligibility is not independent approval admission or publication

The report expressly states Assessment Year 2007-2008; the shortened 2007-08 label refers to that same year. No amount of deduction or assessed income is supplied.

The Court gives three reasons why the statutory section 260A disposal cannot stand, requires formulation and decision of the material section 35D question and finally sets aside the High Court order. This is a reasoned final 1961 Act appellate ruling; section 35D and section 263 merits remain undecided.

STATUTORY SCOPE

Not verified; no numerical equivalence, savings, transition or automatic precedent-carryover claim.

LATER TREATMENT

Source checked 2026-10-06. No verified target-specific later treatment or post-remand result is adopted. An official ITAT lead failed full access and is retained only as a qualified search lead.

IDENTIFIED SOURCE LINKS

[primary - PDF pages: 5](#)

SHA-256: 1251d7e37fe4dcdd9a7b76a6effc45d5648a5cd150e867265f3d56e165de03db

[historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

[The Principal Commissioner of Income Tax-8 v. M/s Yes Bank Ltd., official SCI rendition](#)

[Yes Bank, Supreme Court record of proceedings on pronouncement, 15 March 2019](#)

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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