

# National Co-operative Development Corporation v. Commissioner of Income Tax, Delhi-V

Civil Appeal No. 5105 of 2009 / Civil Appeal No. 5106 of 2009 / Civil Appeal No. 5107 of 2009  
[2020] 13 SCR 517 | 2020-09-11

**Whether NCDC could deduct its non-refundable grants as business expenditure against taxable interest income, notwithstanding the capital character of Central Government funding and the pooling of receipts in its statutory Fund.**

37(1) | 14 | 28 | 56 | 57 | 36(1)(xii)

Two-judge bench | Sanjay Kishan Kaul, J. | Indu Malhotra, J.

Assessment years: 1976-77, 1981-82, 1982-83, 1983-84

## 01 FACTS OF THE CASE

NCDC was constituted under the National Cooperative Development Corporation Act, 1962 to support cooperative development through loans, grants and subsidies. Its statutory Fund received Central Government support, loan repayments, interest and investment returns. Temporarily idle funds were placed in fixed deposits. The capital treatment of Central Government receipts was undisputed; the controversy concerned deduction of grants against the taxable income earned from the funding activity (paragraphs 2-4).

For assessment year 1976-77, NCDC claimed Rs.19,35,950 in grants. The Assessing Officer rejected the deduction as capital expenditure. The CIT(A) held that grant-making formed part of NCDC's business and that the expenditure did not create capital assets for NCDC; it allowed a net Rs.13,66,187 after excluding Rs.5,69,763 of unutilised grants returned. The Tribunal reversed that result on the common-fund/application-of-income reasoning (paragraphs 5-7).

The Delhi High Court accepted that the interest was business income but rejected the grant deduction. Three appeals covered assessment years 1976-77, 1981-82, 1982-83 and 1983-84. The dispute before the Supreme Court concerned grants, not repayable loans; confusing the two had affected the reasoning below (paragraphs 8-15 and 27).

Source: [reported judgment / paragraphs 2-14 / PDF pages 12, 13, 14, 15, 16, 17, 18 / judgment](#); [official signed judgment / paragraphs 12: table of appeals and assessment years / PDF pages 10 / judgment](#)

## 02 DISCUSSION BY THE HON'BLE COURT

The Court first upheld the business-income classification. Receiving funds and deploying them through loans or grants was NCDC's business; interest earned while the funds were temporarily idle was integrally linked to that activity. The statutory absence of a profit-making objective did not prevent that conclusion. Section 56 was residual and need not be invoked where the income belonged under the business head (paragraphs 21-23).

The capital nature of money received did not necessarily dictate the character of expenditure made from it. The Court stressed that the claim concerned non-refundable grants, which left NCDC's hands, rather than loans repayable with interest. Grant-making was its core business and did not create the asserted enduring asset for NCDC. Pooling taxable interest with other monies could not convert that revenue receipt into capital (paragraphs 24-29).

Applying section 37(1), the Court treated the grants as expenditure for NCDC's business. The source of the expenditure, whether corpus or interest, did not determine deductibility. A benefit to downstream societies did not make a direct business outlay merely a distribution of income. The Court also rejected Revenue's conjectural tracing objection: the CIT(A) had examined the audited figures and accepted the nexus for the amount allowed. These conclusions operate within section 37(1)'s exclusions and the established business facts; they do not make every payment by a public body deductible (paragraphs 30-34).

The Court separately examined diversion by overriding title and rejected it. NCDC selected the grantees and amounts in its business discretion; no grantee had superior title to income before it reached NCDC. Relief therefore rested on deducting permissible business expenditure in arriving at real profits, not on excluding the interest as income diverted at source. The discussions of Sitaldas Tirathdas, Travancore Sugar, Poona Electric and S.C. Kothari support distinct steps in that reasoning (paragraphs 32-38).

Failure to claim the deduction in earlier years did not bar correction of that approach. The Court discussed the later insertion of section 36(1)(xii), but held that the permissible expenditure for the earlier years remained deductible under section 37(1). It did not need to apply the later clause retrospectively to grant relief (paragraphs 39-43).

Two postscripts addressed prolonged government litigation, dispute-resolution mechanisms and improvements to advance rulings. They recommend policy consideration; they do not establish a present-day advance-ruling procedure or abolish statutory remedies. The closing direction was to send a copy to the specified Finance Ministry departments and the Ministry of Law and Justice (Postscript 1 paragraphs 1-9; Postscript 2 paragraphs 10-23).

Source: [reported judgment / paragraphs 21-29 / PDF pages 22, 23, 24, 25, 26 / judgment](#); [reported judgment / paragraphs 30-38 / PDF pages 26, 27, 28, 29 / judgment](#); [reported judgment / paragraphs 39-43 / PDF pages 29, 30, 31 / judgment](#); [reported judgment / paragraphs Postscript 1 paragraphs 1-9; Postscript 2 paragraphs 10-23 / PDF pages 31, 32, 33, 34, 35, 36, 37 / judgment](#)

### 03 JUDICIAL DECISION

The three appeals were allowed, with each party bearing its own costs. The Court disagreed with the Assessing Officer, Tribunal and High Court on the deduction issue and concurred with the CIT(A)'s view for the reasons it supplied. The 1976-77 example preserves the distinction between the gross claim and the net amount allowed after returned grants; the judgment does not direct deduction of repayable loans or issue a new aggregate quantification across all years (paragraph 44, read with paragraphs 6, 12, 27 and 34).

Source: [official signed judgment / paragraphs 44 / PDF pages 35 / judgment](#); [reported judgment / paragraphs 6; 12; 27; 34; 44 / PDF pages 15, 17, 24, 25, 27, 31 / judgment](#)

### 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee, National Co-operative Development Corporation

All three assessee appeals allowed; CIT(A) approach on allowable grant expenditure accepted; parties to bear their own costs

Substantive determination of business-income classification and deductibility of non-refundable grants for the stated historical assessment years

Repayable loans are outside the deduction dispute. Diversion by overriding title was rejected. The policy postscripts do not replace statutory rules or establish present-law eligibility for advance rulings.

Source: [official signed judgment / paragraphs 44; Postscript 2 paragraph 23 / PDF pages 35, 50 / judgment](#)

### 05 AKHB REVIEW POINT

For a statutory development entity, separate three questions: the character of its receipts, the nature of its actual business, and the character of each outgoing. Support a deduction with the constituting statute, sanction terms, grant/loan distinctions and audited disbursement and refund records. A capital funding source or a common bank/fund pool does not, by itself, make a genuine business outlay capital. Conversely, this decision is not authority to deduct recoverable loan principal.

The successful analysis is business expenditure, not diversion of income before accrual. Keep the 2020 judgment distinct from other NCDC proceedings and apply the assessment-year version of the legislation. The later section 36(1)(xii) discussion and policy postscripts should not be used as substitutes for checking current eligibility, notifications or procedure. Subsequent treatment and any Income-tax Act, 2025 application remain unverified.

Source: [reported judgment / paragraphs 23-38; 40-44 / PDF pages 23, 24, 25, 26, 27, 28, 29, 30, 31 / judgment](#)

**ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS**

256(1); 245N; 245R(6)

**PROVISION-SPECIFIC SCOPE**

**1.**

**Act:** Income-tax Act, 1961

**Section:** 37(1)

**Role:** principal deduction provision

**Basis:** Non-refundable grants made in the course of the Corporation's statutory business were revenue expenditure for the historical years at issue.

**2.**

**Act:** Income-tax Act, 1961

**Section:** 14; 28; 56; 57

**Role:** business-income classification and rejected alternative

**Basis:** Interest arising from the Corporation's funding activity was business income; resort to the residual other-sources framework was unnecessary.

**3.**

**Act:** Income-tax Act, 1961

**Section:** 36(1)(xii)

**Role:** subsequent statutory development discussed

**Basis:** The Court distinguished the later specific deduction from the pre-amendment section 37(1) basis on which these appeals were decided.

**4.**

**Act:** Income-tax Act, 1961

**Section:** 256(1)

**Role:** reference procedure

**Basis:** The High Court proceedings arose on references concerning deductibility of grants.

**5.**

**Act:** Income-tax Act, 1961

**Section:** 245N; 245R(6)

**Role:** postscript policy discussion

**Basis:** Advance-ruling definitions, scope and disposal time were considered in recommendations for reducing tax litigation, not as an adjudicated advance-ruling application.

**6.**

**Act:** National Cooperative Development Corporation Act, 1962

**Section:** 9; 12; 13(1)-(2)

**Role:** constituting statute and business functions

**Basis:** The funding and grant-disbursement framework supplied the business purpose; no grantee had a superior title to identified income.

## **JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS**

Sanjay Kishan Kaul, J.

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

Income-tax Act, 1961

## **SOURCE & VERIFICATION**

### Hon'ble Supreme Court source PDF (official signed judgment)

Identified source rendition: 50 PDF pages; SHA-256 457ff618be3d9827713ba87dfd9068aa85f740956a2f0f11c032131cc2c869e3. Original bytes preserved. Main judgment paragraphs 1-44 on physical pages 1-35; Postscript 1 paragraphs 1-9 and Postscript 2 paragraphs 10-23 on physical pages 35-50, followed by signatures and judgment date on page 50. Identity, key factual and reasoning passages, disposition and signatures/date cross-checked against the fully read reported judicial text; a complete independent rereading of every original PDF page is not claimed.

### Open cited source rendition

This is the 11 September 2020 NCDC judgment and is distinct from the 2025 NCDC litigation.

The reported paragraph 12 assessment-year table is absent from extracted page text; it was visually read and checked against the official original.

Main judgment paragraph 44 allows the appeals. The reporter's terminal label says Appeals disposed of; the judicial disposition controls.

Paragraph 14 gives the committee meeting date as 14 August 2007, while Postscript 1 paragraph 2 gives 14 August 2009. This immaterial source discrepancy is not resolved or repeated as a settled date.

The original PDF signature-stamp metadata includes a later signing timestamp; the judicial signature page and reported cover identify 11 September 2020 as the judgment date.

Postscripts are separately identified, including their restarted paragraph numbering.

No subsequent-treatment or current-law verification.

Reported citation verified on the source cover. No neutral citation is inferred from catalogue metadata.

The paragraph 12 table, visually verified on reported physical page 17 and checked against original physical page 10, assigns 1976-77 and 1981-82 to Civil Appeal 5105/2009, 1982-83 to 5106/2009 and 1983-84 to 5107/2009. The detailed factual example is 1976-77.

## **STATUTORY SCOPE**

Section 37(1) as applied to assessment years 1976-77, 1981-82, 1982-83 and 1983-84, with business-income provisions and the later section 36(1)(xii) development discussed by the Court. The postscripts describe the advance-ruling and governmental-dispute arrangements as understood in 2020, not their present status.

No automatic Income-tax Act, 2025 mapping or current-law or later-treatment certification.

## **LATER TREATMENT**

Source checked 2026-10-04. Subsequent judicial treatment and statutory amendments have not been comprehensively verified.

**IDENTIFIED SOURCE LINKS**

[official signed judgment - PDF pages: 50](#)

SHA-256: 457ff618be3d9827713ba87dfd9068aa85f740956a2f0f11c032131cc2c869e3

[reported judgment - PDF pages: 37](#)

SHA-256: f8dc543485c516c50090e5bb17fc8fe7a3a1126e17875cce7a253e4620cd4c96

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