

Wipro Finance Ltd. v. Commissioner of Income Tax

Civil Appeal No. 6677 of 2008

[2022] 2 S.C.R. 1146 | 2022-04-12

Whether foreign-exchange loss on borrowing used in the assessee's financing business was deductible as revenue expenditure, including a component initially capitalised but claimed before the Tribunal, and what consequential adjustment was required.

37 | 254 | 43A

Three-judge bench | A. M. Khanwilkar, J. | Abhay S. Oka, J. | C. T. Ravikumar, J.

Assessment years: 1997-98

01 FACTS OF THE CASE

For AY 1997-98, Wipro Finance returned a foreign-exchange fluctuation loss of Rs 1,10,53,909. It had borrowed GBP 5 million from Commonwealth Development Corporation in England to expand its financing business involving leasing and hire purchase of capital equipment for Indian enterprises. The assessment resulted in positive taxable income. In its Tribunal appeal, Wipro also claimed Rs 2,46,04,418 which it had erroneously capitalised in its return. The Tribunal recorded the departmental representative's lack of objection, entertained the additional claim under section 254, held section 43A inapplicable and allowed the total Rs 3,56,57,727 on revenue account. The Karnataka High Court reversed, considering the Tribunal's reasons insufficient. The Supreme Court examined both the character of the expenditure and the Tribunal's power to entertain the fresh claim.

Source: [official signed order / paragraphs 1-4; 6 / PDF pages 1, 2, 3, 4, 5, 6 / judgment](#); [reported rendition / paragraphs 1-4; 6 / PDF pages 2, 3, 4, 5 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished Wipro's borrowing for its financing business from acquisition by Wipro of an asset from outside India. The loan funded its trading activity and was used wholly and exclusively for that business. The fact that the financed Indian enterprises procured equipment on lease or hire purchase did not change the character of Wipro's separate financing activity. Applying India Cements and Empire Jute, the Court upheld the Tribunal's treatment of the exchange loss as revenue expenditure under section 37. An enduring advantage is not by itself conclusive; the commercial nature of the advantage and whether fixed capital is affected matter (paragraphs 6-9).

The Court rejected the Revenue's objection that Wipro could not claim revenue treatment before the Tribunal after capitalising part of the amount in its return. The Tribunal had consciously admitted the claim under section 254, relied on National Thermal Power and recorded the Department's express lack of objection. Goetze (India) limits the assessing authority's ability to entertain such a claim; it does not cut down the Tribunal's plenary powers under section 254 (paragraphs 10-11). This is not a ruling that the Assessing Officer must accept every new claim without a revised return. Elecon Engineering's section 43A reasoning did not apply because Wipro had not acquired an asset from abroad for its own business (paragraph 12).

Source: [official signed order / paragraphs 6-12 / PDF pages 5, 6, 7, 8, 9, 10, 11 / judgment; reported rendition / paragraphs 6-12 / PDF pages 5, 6, 7, 8, 9 / judgment](#)

03 JUDICIAL DECISION

The Court set aside the High Court's decision on the two questions and restored the Tribunal's order dated 3 June 2004. The entire Rs 3,56,57,727 was allowed as revenue expenditure. The assessment had to be amended consequentially: depreciation and similar benefits already availed on the capitalised Rs 2,46,04,418 were to be treated as unavailable. The appeal was allowed on those terms with no order as to costs, and pending applications were disposed of.

Source: [official signed order / paragraphs 13-15 / PDF pages 11, 12 / judgment; reported rendition / paragraphs 13-15 / PDF pages 9 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee, subject to withdrawal of consequential capitalisation-based benefits

Appeal allowed; High Court reversed and Tribunal restored on the two deduction questions

Deduction and fresh-claim issues decided; consequential assessment amendment directed

The official record of proceedings expressly de-linked SLP(C) 9274/2009 and Civil Appeals 2666/2011, 7906/2009 and 2696/2010 because they involved different questions. They are not treated as allowed by this order.

Source: [official signed order / paragraphs 13-15; appended record of proceedings / PDF pages 11, 12, 13, 14 / judgment and appended record of proceedings; reported rendition / paragraphs 13-15 / PDF pages 9 / judgment](#)

05 AKHB REVIEW POINT

Trace the actual use of foreign borrowing and distinguish a financing business transaction from overseas asset acquisition before applying section 37 or section 43A. The Tribunal's section 254 jurisdiction is distinct from the Assessing Officer's revised-return constraints; identify the appellate stage, admitted material and Revenue's response rather than treating the decision as a universal waiver of return requirements. Reconcile the full deduction with depreciation previously claimed on the same capitalised component so the consequential assessment does not give a double benefit. The source contains a Rs 400 variation in the originally claimed amount inside the quoted High Court question; the Court's factual narrative and operative total, not a silent numerical correction, are used here. Verify later treatment and the applicable statutory version before reliance.

Source: [official signed order / paragraphs 7; 10-14 / PDF pages 6, 9, 10, 11 / judgment; reported rendition / paragraphs 7; 10-14 / PDF pages 5, 6, 7, 8, 9 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

143(1)(a)

RELATED DECISIONS AND LIMITS

1.

Id: sc-2024-10-04-shriram-investments

Relationship: Research cross-reference on a fresh claim before the assessing authority; distinguish that procedural stage from the Tribunal jurisdiction upheld here.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(official signed order\)](#)

Identified source rendition: 14 PDF pages; SHA-256

6804a4b9a1b7fa38f8f513ed871c35c5d1f4f2b030ae1272a63ca5de368253ba. Original bytes preserved.

Open cited source rendition

The official PDF has 14 physical pages: signed reportable order on pages 1–12 and record of proceedings on pages 13–14. Only Civil Appeal 6677/2008 is decided on these merits; four listed matters are expressly de-linked.

The reported jurisdictional preface prints ITA 633/2014, but judicial paragraph 1 and official page 1 identify ITA 633/2004. The judicial identifier is used.

Paragraph 2 states Rs 1,10,53,909, whereas the question quoted in paragraph 4 prints Rs 1,10,53,509. The total allowed is expressly Rs 3,56,57,727; no unexplained arithmetic correction is made.

The obligation to withdraw depreciation or other capitalisation-based benefits in paragraph 14 is integral to the relief.

The section 43A result depends on the particular financing facts; no general rule for every foreign-currency loan or asset is stated.

No comprehensive subsequent-treatment or present-law audit performed.

Reported citation verified on reported physical PDF page 1; no unverified neutral citation added.

STATUTORY SCOPE

Historical provisions considered in the judgment; no independent consolidated current-statute audit

No automatic mapping to the Income-tax Act, 2025 or automatic transfer of this holding to a later statutory version.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[official signed order - PDF pages: 14](#)

SHA-256: 6804a4b9a1b7fa38f8f513ed871c35c5d1f4f2b030ae1272a63ca5de368253ba

[reported rendition - PDF pages: 9](#)

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