

Pr. Commissioner of Income Tax 6 v. Khyati Realtors Pvt. Ltd.

Civil Appeal No. 5804 of 2022 / Arising out of SLP (Civil) No. 672 of 2020

[2022] 7 S.C.R. 37 | 2022-08-25

Whether a claimed Rs 10 crore advance for commercial premises was deductible as a bad debt, or alternatively as business expenditure.

36(1)(vii) | 36(2) | 37(1)

Three-judge bench | Uday Umesh Lalit, J. | S. Ravindra Bhat, J. | Sudhanshu Dhulia, J.

Assessment years: 2009-10

01 FACTS OF THE CASE

For AY 2009-10, the assessee, engaged in real-estate development, TDR trading and finance, claimed a Rs 10 crore write-off. It said the amount had been advanced to a developer in March 2007 for commercial premises, that the project did not progress and that repayment was not made. It alternatively characterised the amount as a loan. The Assessing Officer and CIT(A) rejected the claim; the Tribunal allowed it and the Bombay High Court declined the Revenue's section 260A appeal.

Source: [paragraphs 1-4 / PDF pages 1, 2, 3](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court held that section 36(1)(vii) must be read with section 36(2): an actual write-off is required, a mere provision is insufficient, and the debt must have entered the income computation or represent an ordinary-course banking or money-lending advance. T.R.F. Ltd. does not dispense with these qualifying conditions. The record did not establish the asserted property transaction, loan terms or qualifying write-off; on the assessee's property-acquisition case the payment was capital. On the alternative claim, the Court recognised that failure under the bad-debt provision does not automatically foreclose every properly established revenue-business deduction, but section 37 cannot rescue an item expressly excluded under the specific provision. The taxpayer failed on the facts.

Source: [paragraphs 12-18 / PDF pages 7, 8, 9, 10, 11, 12](#); [paragraphs 20-23 / PDF pages 12, 13, 14, 15](#)

03 JUDICIAL DECISION

The Rs 10 crore deduction could not be allowed. The Revenue's appeal was allowed, and the High Court judgment and Tribunal order were set aside, without an order as to costs.

Source: [paragraphs 19, 24 / PDF pages 12, 15](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Revenue appeal allowed; High Court judgment and ITAT order set aside; no costs

Deduction claim rejected on the record

The decision is not a universal rule that every unrecovered property advance is capital, or that a failed bad-debt claim can always or never be deducted under section 37. The nature of the transaction and the statutory exclusion matter.

Source: [paragraphs 24 / PDF pages 15](#)

05 AKHB REVIEW POINT

A board resolution or accounting label alone does not establish a deductible bad debt. Preserve the contract, payment evidence, debtor ledger, write-off entries and evidence connecting the debt to prior taxable income or an actual money-lending business. Plead any alternative revenue-loss basis with its own facts and legal conditions. A financing object in the memorandum does not, by itself, prove that a particular property advance was money lent in the ordinary course of that business.

Source: [paragraphs 17-18, 21-23 / PDF pages 10, 11, 12, 14, 15](#)

SOURCE & VERIFICATION

[Original Hon'ble Supreme Court PDF](#)

Complete identified source PDF: 15 pages. Original bytes preserved.

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The assessee's factual assertions in paragraphs 2-9 are distinguished from the Court's evidentiary findings in paragraph 18.

Discussion of Mysore Sugar under the 1922 Act is precedent analysis within a core 1961 Act appeal, not a reason to classify this case as 1922-only.

Civil appeal number and SCR citation verified from the reported rendition's first page. The original signed PDF leaves the civil appeal number blank but prints SLP 672/2020.

STATUTORY SCOPE

Official Department consolidation as amended by Finance Act 2026. Correspondence does not certify complete substantive equivalence or later amendments. Apply section 536 and the governing year separately.

Identified correspondence (no automatic precedent carryover):

36(1)(vii), 36(2) → 31(2), 31(3)

36(2)(i) → 31(2)(a)

37(1) → 34(1), 34(2), 34(3)

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 judgment - PDF pages: 15](#)

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[31\(2\)-\(3\) - PDF pages: \[60, 61\]](#)

[34\(1\)-\(3\) - PDF pages: \[67\]](#)

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