

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

MONDAY, THE 28TH DAY OF SEPTEMBER 2026 / 6TH ASWINA, 1948

ITA NO. 21 OF 2026

AGAINST ORDER DATED 04.08.2025 IN ITA NO.287/COCH/2024 OF INCOME
TAX APPELLATE TRIBUNAL, COCHIN BENCH

APPELLANT/APPELLANT:

THE SOUTH INDIAN BANK LTD.
HEAD OFFICE, MISSION QUARTERS, T.B. ROAD, THRISSUR.
[PAN: AABCT 0022 F], PIN - 680001

SHRI.ALEXANDER JOSEPH MARKOS
SRI.JOSEPH MARKOSE (SR.)
SRI.V.ABRAHAM MARKOS
SHRI.ABRAHAM JOSEPH MARKOS
SHRI.JOHN VITHAYATHIL
SRI.PAUL P. ABRAHAM

RESPONDENT/RESPONDENT:

DY. COMMISSIONER OF INCOME TAX
CIRCLE-1(1) & TPS, THRISSUR KERALA, PIN - 680001

SRI.G.KEERTHIVAS
SHRI.HARIKUMAR G. (GOPINATHAN NAIR)

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON
28.09.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT****Devan Ramachandran, J.**

The appellant is a Scheduled Bank under the provisions of the Banking Regulation Act and they challenge the order of the learned Income Tax Appellate Tribunal (ITAT), Cochin Bench (Tribunal for short).

2. The facts involved are not in dispute; and therefore, we will record them very briefly.

3. The appellant suffered an initial assessment, in which, their claim for disallowance of large sums, written off in relation to Non -Performing Assets (NPA), were allowed. The Principal Commissioner of Income Tax, invoking the provisions of Section 263 of the Income Tax Act ('Act' for short), however, remanded the matter to the Assessing Authority; consequent to which, the latter Authority finalized the assessment, adding an amount of Rs.14.10 crores.

4. The appellant took up the matter in First Appeal; in which they also additionally sought reduction of Rs.52 crores also claimed as written off NPA. The said appeal was also rejected.

5. The appellant, thereupon filed a Second Appeal before



the learned Tribunal, which, according to them, has refused to consider even their contentions *qua* the aforementioned Rs.14.10 crores, being misdirected by the impression that the appeal relates only to the claim as regards additional Rs.52 crores thus to be not one that arises before them under the ambit of Section 36(1)(vii) of the Act. They are thus in appeal before this Court.

6. Sri.Joseph Markos, learned senior counsel, instructed by Sri.Alexander Joseph Markos – appearing for the appellant, submitted that, even assuming that the Tribunal can be found to be justified in not entering into the question regarding Rs.52 crores - which is an additional claim made by his client, while the matter was pending before the First Appellate Authority - its refusal to consider even the case *qua* Rs.14.10 crores is illegal and unlawful. The learned senior counsel then maintained that, as regards Rs.52 crores, his client justified in making it an issue before the First Appellate Authority; and that since the said Authority has already considered it on its merits, the Appellate Tribunal could not have refused to consider it as it has now done. He prayed that, therefore, this appeal be allowed and the matter be remanded to the learned Tribunal for consideration of both issues.



7. Sri.Harikumar G. – learned senior panel counsel for the respondent, in response, submitted that the learned Tribunal has committed no error because the amount of Rs.14.10 crores is not eligible to be allowed, as asserted by the appellant; while the issue relating to Rs.52 crores could not have been impelled before the Tribunal – it having been projected for the first time at the stage of First Appeal. He prayed that this appeal be hence dismissed.

8. As ineluctable from the afore narrative, there are two broad issues; and the questions we have framed also reflect them, as under:

“1) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in dismissing the Appeal on the ground that the issues raised in the Appeal did not emanate from the Assessment Order passed under Section 143(3) read with Section 263 of the Act?

3) Whether on the facts and in the circumstances of the case, the disallowance made in the assessment order of an amount of Rs.14.10 Crores with respect to bad debts written off is erroneous and arbitrary?

4) Whether on the facts and in the circumstances of the case, the additional claim of Rs.51.52 Crores with respect to bad debts written of under Section 36(1)(vii) is an allowable deduction?”

9. On the aspect of Rs.14.10 crores, we are afraid that we cannot find favour with the learned Tribunal at all because, it was enjoined to consider the validity of its addition, or otherwise, on its



merits, rather than have refused to do so solely because an additional claim of Rs.52 crores has been raised. Hence, on the first of the afore questions of law, we find in favour of the appellant.

10. Coming to the question of Rs.52 crores, we are in favour with the conclusions of the learned Tribunal because, this was a claim made by the appellant for the first time before the First Appellate Authority, when it was considering the validity of the assessment made by the Assessing Authority disallowing the claim for Rs.14.10 crores. It is crucial that the second assessment order was based on the order of the Commissioner under Section 263 of the Act; and obviously therefore, an additional disallowance claimed by the Bank could not have been projected in the first appellate remedy against it.

11. In such circumstances, we answer the second question against the assessee; however, clarifying that any other remedy that they may have *qua* Rs.52 crores, which they now claim, is left open, subject to law.

12. Consequently, the matter will stand remanded to the learned Tribunal for fresh consideration on the question of disallowance of Rs.14.10 crores, as has been claimed by the



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appellant, after affording them and the revenue necessary opportunity of being heard; thus culminating in a fresh order.

This appeal is thus ordered.

Sd/- DEVAN RAMACHANDRAN
JUDGE

Sd/- BASANT BALAJI
JUDGE

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APPENDIX OF ITA NO. 21 OF 2026

PETITIONER ANNEXURES

Annexure A	TRUE COPY OF THE ASSESSMENT ORDER DATED 18.12.2019 ISSUED BY THE RESPONDENT UNDER SECTION 143(3)
Annexure B	TRUE COPY OF THE ORDER OF THE COMMISSIONER DATED 25.3.2022
Annexure C	TRUE COPY OF THE REVISED ASSESSMENT ORDER DATED 30.3.2023
Annexure D	TRUE COPY OF THE APPEAL DATED 29.04.2023 FILED BEFORE THE COMMISSIONER OF INCOME TAX (APPEALS)
Annexure E	TRUE COPY OF THE RELEVANT PAGE OF THE ANNUAL REPORT
Annexure F	TRUE COPY OF THE ORDER OF THE CIT (APPEALS) DATED 07.02.2024
Annexure G	TRUE COPY OF THE APPEAL FILED BEFORE ITAT AS ITA NO. 287/COCH/2024
Annexure H	TRUE COPY OF THE IMPUGNED ORDER OF THE ITAT DATED 04.08.2025
Annexure I	TRUE COPY OF THE DECISION OF THE HON'BLE SUPREME COURT IN NATIONAL THERMAL POWER CORPORATION (1998) 229 ITR 383