IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "G" BENCH: NEW DELHI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA Nos.4170/Del/2025 & 5552/Del/2024
[Assessment Year : 2016-17]

India Infrastructure Finance Company Ltd., 5th Floor, NBCC Tower, Block-B, Kidwai Nagar East, Delhi-110023. ***PAN-AABCI4645K***	vs	**ACIT** Circle-10(1) Delhi-110001
APPELLANT		**RESPONDENT**

Appellant by	Shri Shey Gupta, AR & Ms. Rashi Agarwal, CA
Respondent by	Shri Siddharth Bhim Singh Meena, CIT DR
Date of Hearing	08.12.2025
Date of Pronouncement	11.02.2026

ORDER

PER MANISH AGARWAL, AM :

The captioned appeals are filed by assessee against the order dated 26.03.2025 by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre ("NFAC"), Delhi ["Ld.CIT(A)"] in Appeal No.CIT(A), Delhi-35/10247/2018-19 passed u/s 250 of the Income Tax Act, 1961 ["the Act"] arising out of assessment order dated 28.12.2018 passed u/s 143(3) of the Act and against the order dated 26.09.2024 passed by Ld.CIT(A), NFAC, Delhi in appeal No.NFAC/15-16/10246291 arising out of rectification order u/s 154 of the Act dated 30.03.2023, both pertaining to Assessment Year 2016-17.

2. It is relevant to state that both the assessment orders were passed by NFAC, Delhi and related to single Assessment Year i.e. 2016-17.

3. Since both the captioned appeals are related to one assessment order and issues are common, interlinked and inter-connected to the same assessee. Hence, both appeals have been heard together and adjudicated by this common order.

4. First we take up appeal of the assessee in ITA No.4170/Del/2025 arising out of assessment order passed u/s 143(3) of the Act.

ITA No.4170/Del/2025 [Assessment Year : 2016-17]

5. Brief facts of the case are that the assessee is a financial institution wholly owned by the Government of India, set up in 2006 to provide long term finance to viable infrastructure projects through the Viable Infrastructure Projects through Scheme for Financing by the root of the Special Purpose Vehicles called India Infrastructure Finance Company Ltd. ("IIFCL"), broadly referred to as "SIFTI". The assessee is a banking/financial institution and governed by Reserve Bank of India. The return of income was filed for the year under appeal on 17.10.2016, declaring total income of INR 1427,99,77,850/- under normal provisions of the Act and profit of INR 12,78,81,80,142/- as declared u/s 115JB of the Act as MAT profit. The case was selected for scrutiny under CASS and notice u/s

143(2) was issued on 14.07.2017. After considering the submissions by the assessee from time to time, the assessment was completed wherein the total income of the assessee was assessed at IRN 14,47,65,35,850/- vide assessment order dated 28.12.2018 passed u/s 143(3) of the Act by making following disallowances:-

(i) Disallowance of expenses on amortization of premium on HTM securities INR 1,37,51,000/-
(ii) Disallowance of prior period expenses INR 55,62,000/-
(iii) Disallowance on account of excess claim of Loan amount written off INR 17,72,45,000/-

6. Thereafter, in terms of rectification order passed u/s 154 r.w.s. 143(3) of the Act on 30.03.2023 wherein AO further made disallowance of the amount claimed u/s 36(1)(vii) of the Act towards the transfer of special reserve of INR 15,00,18,000/-. Accordingly, the total income was finally rectified at INR 14,62,65,53,850/-. The assessee filed two separate appeals against both the orders passed u/s 143(3) r.w.s. 154 of the Act and the present appeal in consideration is against the order passed u/s 143(3) of the Act wherein AO has made various disallowances.

7. Against the said order, the assessee preferred appeal before Ld.CIT(A) wherein Ld.CIT(A) vide its order dated 26.03.2025, has partly allowed the appeal of the assessee and deleted the disallowance of amortization of premium of HTM securities of INR 1,37,51,000/- and further, directed to allow the prior period

expenses of INR 55,62,000/- by making verification whether said expenses related to premium or HTM securities. However, the disallowance of written off of INR 17,72,45,000/- made by AO was upheld.

8. Aggrieved by the order of Ld.CIT(A), assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1. *"The Learned Commissioner of Income-Tax (Appeals) has erred in facts and in law in rejecting the appeal of the Appellant with regards to of Rs. disallowance 17,72,45,000/- made by Assessing Officer on account of excess claim of Loan Amount Written Off u/s 36(1) (vii) r.w.s. 36(2) of the Act.*

   The Learned Commissioner of Income-Tax (Appeals) has erred in law in rejecting the appeal and upholding the disallowance made by the AO, merely based on the fact that the appellant has not offered the same to lax in preceding years completely disregarding the fact that the appellant is in the business of providing long-term finance and loan written-off is in the nature of allowable business loss.

   The Learned Commissioner of Income-Tax (Appeals) has erred in law by not appreciating the fact that some partial amount out of the total Rs. 17,72,45,000/-was recovered in subsequent years and duly offered to tax u/s 41 of the Act.

2. *The Learned Commissioner of Income-Tax (Appeals) has erred in facts and in law in rejecting the appeal of the Appellant with regards to disallowance made by the Assessing Officer of prior period expenses i.e., amortized amount of Premium paid on Non-Current Securities, amounting to Rs. 55,62,000/- claiming to be capital in nature.*

   The Learned Commissioner of Income-Tax (Appeals) has erred in law in rejecting the appeal and upholding the disallowance made by the AO with regard to prior period expense of amortized Premium paid on Non-Current Securities separately, disregarding the fact that the said amount of Rs. 55,62,000/- was already disallowed by the Appellant itself in the Income Tax Return filed as prior period expense.

3. *The Learned Commissioner of Income-Tax (Appeals) has erred in facts and in law in rejecting and dismissing the appeal of the Appellant against initiation of penalty proceedings for*

furnishing inaccurate particulars of income u/s 271(1)(c) of the Act by the Assessing Officer.

4. *The above grounds are without prejudice to each other.*

5. *That the appellant craves. leave to add, amend or alter any of the grounds of appeal."*

9. **Ground of appeal No.1** raised by the assessee is related to the disallowance of INR 17,72,45,000/- made by the AO towards excess claim of written off of loan u/s 36(1)(vii)/36(2) of the Act. The AO while making the disallowance, has made the following observations:-

5.4. "The submission of the assessee company has been considered, but not found acceptable. The assessee company is a Public Finance Company and already availing the deduction u/s 36(viia) (c) of the Act. Further, for claiming deduction u/s 36(1)(vii) and 36(2), it is settled position of law that the deduction will only be allowed to those amounts which were offered to tax in earlier years. CBDT circular No 12/2016 dated 31st May 2016 on admissibility of claim deduction of bad debts u/s 36(1) (vii) read with section 36(2) of the Income Tax Act, 1961 has cleared the position of allowability of bad debts that are written off irrecoverable in the accounts of the assessee. The Hon'ble Supreme Court in the case of TRF Ltd. In CA Nos. 5292 to 5294 of 2003 vide judgment dated 9.2.2010 has stated that the position of law is well settled. After 1.4.1989, for allowing deduction for the amount of any bad debt or part thereof under section 36(1) (vii) of the Act, it is not necessary of assessee to establish that the debt, in fact these become irrecoverable; it is enough if bad debt is written off as irrecoverable in the books of accounts of assessee." In view of this discussion. amount of Rs.53952.23 Lakhs which were offered as Interest in earlier assessment years is allowed out of claim of Rs.55724.68 Lakhs made by assessee. Hence, Rs.17,72,45,000 (being the difference of Rs.55724.68 Lakhs and Rs.53952.23 Lakhs) is treated as excess claim made by the assessee company and is disallowed being non allowable u/s 36 (1)(vii) r.w.s.36(2) of the Act.

I am satisfied that the assessee has furnished inaccurate particulars of its income, penalty proceedings under section 271(1)(c) are being initiated separately."

(Addition: Rs.17,72,45,000/-)

10. Ld.CIT(A) while confirming the disallowance has made the following observations:-

> 9. *"I have considered the submission of the appellant. The appellant is a financial institution and as per the provisions of section 36(1) (viia) (c) of the Act, a public financial Institution is allowed an amount not exceeding 5% of the total income as provision for bad and doubtful debts. As far as claim u/s 36(2) rws 36(1) (vii) is concerned, the same is allowable if the amount was considered in computing the income of the assessee in the earlier years and the same is written off as bad debt in the books of accounts. The AO has already considered the amount which was offered as income in the earlier years. As far as amount of Rs. 17,72,45,000/ - is concerned, the same is not allowable u/s 36(2) rws 36(1)(vii) as this amount was not offered as income in the earlier years and such bad debts are covered by provisions of section 36(1)(vii) rws 36(2) of the Act according to which the same is allowable if the amount was considered in computing the income of the assessee in the earlier years and the same is written off as bad debt in the books of accounts and it is seen that the amount was not offered as income in the earlier years. Hence, the disallowance made by the AO is confirmed and the grounds of appeal are dismissed."*

11. Before us, Ld.AR for the assessee submits that the assessee has claimed bad debts based on the fact that the accounts of same advances were become NPA and in terms of the direction given by Reserve bank of India ("RBI"), they were claimed as bad debts. Further, he submits that out of the total claim of bad debts of INR 53,952.23 Lakhs which was offered for tax as interest in earlier year and the remaining was disallowed for the sole reason that this amount has never been offered for tax. Ld.AR submits that assessee is in the business of providing long term finances and the return of loss is normal business loss. He further submits that partial amount out of INR 17,72,45,000/- was recovered in subsequent year and

offered for tax. Ld.AR submits that Hon'ble Supreme Court in the case of ***TRF Ltd. in CA Nos. 5292 to 5294 of 2003*** dated ***09.02.2010*** has held that if the bad debts in the return of income is recoverable, the same is to be allowed u/s 36(2) of the Act. He therefore, submits that the claim of the assessee should be allowed.

12. On the other hand, Ld.CIT DR for the Revenue supported the orders of the lower authorities and submits that once it is established that the amount was never offered for income in earlier years, therefore, the lower authorities have rightly made the disallowance which orders deserves to be uphold.

13. Heard the contentions of both parties and perused the material available on record. The claim of the assessee is that in subsequent years, AO has disallowed the differential amount of loan during the year for the sole basis that the said amount was never offered for tax. The assessee further claimed that out of the loans written of during the year, a sum of INR 132.35 crores was recovered and offered for tax in FY 2017-18 & INR 34.98 crores in FY 2018-19 till 24.12.2018. Therefore, further disallowance is double taxation.

14. After considering the arguments of the parties and the facts of the present case, we find that the solitary ground from making disallowance by the lower authorities is that amount of INR 17.72 crores was the excess claim of loan which was not offered to tax in preceding year. It is also a matter of fact that assessee is in the

business of providing long term finances to infrastructure projects therefore, the amount written off should have been allowed. However, in terms of section 36(2)(v) of the Act, the said amount should have been debited to the provision for bad and doubtful debts. The relevant provision of section 36(2)(v) of the Act is as under:-

15. Since the assessee is a financial institution and in terms of section 36(1)(viia) of the Act is allowed to make provisions for bad in doubtful doubts in terms of section 36(1)(viia)(c) of the Act where 5% of the total income is allowed to be made as provision.

16. It is further observed that the assessee has offered for tax the amount which were recovered gross amount of loan return during the year i.e. INR 55,724.69 Lakhs. It is not clarified whether the amounts received during the year represents the interest of principal and therefore, the claim of the assessee cannot be accepted as such.

17. In view of these facts and discussion made herein above, in our considered view, the issue is sent back to the file of AO with a direction to verify all the facts whether the assessee has duly complied with the provisions of section 36(2)(v) of the Act and further verify whether out of the amount of INR 17,72,45,0000/- in the amount is recovered and offered for tax in subsequent AY and decide the issue in accordance with law. With these directions, this Ground

of appeal No.1 raised by the assessee is allowed for statistical purposes.

18. **Ground of appeal No.2** is with respect to the disallowance of INR 55,62,000/- made on account of prior period expenses.

19. Heard the contentions of both parties and perused the material available on record. The AO has disallowed the amount of prior period expenses however, Ld.CIT(A) has remanded this issue back to the AO for verification of the fact whether this amount is included in the total disallowance of INR 1,37,51,000/- and if so, delete the addition made.

20. We find the said directions of Ld.CIT(A has proper looking to the facts of the case therefore, the same is hereby, upheld. Accordingly, Ground of appeal No.2 raised by the assessee is dismissed.

21. **Ground of appeal No.3** is with respect to initiation of penalty u/s 271(1)(c) of the Act which is premature at this stage hence, dismissed.

22. **Ground of appeal Nos. 4 & 5** are general in nature, needs no separate adjudication hence, dismissed.

23. In the result, appeal of the assessee is partly allowed.

24. Now we take appeal of the assessee in ITA No.5552/Del/2024 for Assessment Year 2016-17.

ITA No.5552/Del/2024 [Assessment Year 2016-17]

25. The present appeal filed by the assessee against the rectification order passed u/s 154 wherein AO has reduced the amount of allowable deduction for the amount transferred to special reserve of INR 15,00,18,000/-.

26. **Ground of appeal No.3** raised by the assessee is dismissed being not pressed.

27. The remaining **Ground of appeal Nos.1, 2 & 4** raised by the assessee are having common issue of disallowance of INR 15,00,18,000, thus are taken together for consideration.

28. Before us, Ld.AR for the assessee submits that in the order passed u/s 143(3) of the Act, the AO has allowed deduction of INR 2,62,49,69,400/- u/s 36(1)(viii) of the Act towards the amount transferred to subject reserve. However, the said amount is reduced to INR 2,47,49,51,400/- and the excess allowance of deduction of INR 15,00,18,000/- was disallowed by holding that it is not allowable in terms of provision of section 26(1)(viii) of the Act.

29. Ld.AR further submits that in terms of section 36(1)(viii) of the Act, any amount transferred to special reserve, 20% of the amount of profits is allowed as the deduction with a rider that gross amount of reserve should not be exceed twice of the amount of paid up share capital and reserves of the specified entities. The claim of the assessee is that it should be allowed transfer to the reserve 20% of the profits i.e. 2,62,49,69,400/- as against actual amount of transfer in the special reserve of IRN 2,47,49,51,400/-.

30. On perusal of the facts and considering the submission of the fat, we observe that Ld.CIT(A) has reproduced the submission of the assessee wherein at page 10 of the order, a table is reproduced wherein it is admitted by the assessee that it had transferred the amount of INR 2,47,49,51,400/- in the special reserve from the Profit & Loss Account. However, had claimed deduction for the maximum amount allowable u/s 36(1)(viii) of the Act. Once the assessee has transferred the amount of 2,47,49,51,000/- in the special reserve, could be allowed for the amount over and above, the actual amount charged to Profit & Loss Account as transferred to special reserve. The limits provided in section 36(1)(viii) of the Act with respect to maximum amount allowable as deduction for the amount transferred to the special reserve by the special entities as provided under the said section. This does not mean that the assessee is entitled for the amount equivalent to the maximum selling provided under the Act. Therefore, we find no error in the order of Ld.CIT(A) who allowed the deduction to the extent of amount charged to Profit & Loss Account

and transfer to the special reserve. Thus, Ground of appeal Nos. 1, 2 & 4 raised by the assessee are dismissed.

31. In the result, the appeal of the assessee is dismissed.

32. In the final result, appeal of the assessee in **ITA No.4170/Del/2025 [Assessment Year 2016-17]** is partly allowed and appeal of the assessee in **ITA No.5552/Del/2024 [Assessment year 2016-17]** are dismissed.

Order pronounced in the open Court on 11.02.2026.

Sd/-	***Sd/-***
(SATBEER SINGH GODARA)	**(MANISH AGARWAL)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Date:- 11.02.2026
Amit Kumar, Sr.P.S

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