

Banking companies not required to apply the provisions of section 115JB

Summary – The High Court of Karnataka in a recent case of ING Vysya Bank Ltd., (the Assessee) held that Banking companies not required to apply the provisions of section 115JB

Facts

- The assessee was a Banking company and claimed deduction of certain amount on account of write off as bad debts under section 36(1)(vii) since it had become irrecoverable. The Assessing Officer disallowed the same.
- On appeal, the Commissioner (Appeals) also upheld the order of the Assessing Officer.
- On further appeal, the Tribunal held that the provisions of section 115JB would not apply to the assessee as it was a banking company. It was also held that the assessee was entitled to deduction of the amount in question on account of it being a bad debt under section 36(1)(vii).
- On appeal :

Held

- The HC stated that with regard to applicability of section 115JB(2) to the Banking Companies it is clear that the said provision applies to every assessee being a company that prepares its profit and loss account for relevant previous year in accordance with provisions of Part II and Part III of Schedule VI of the Companies Act, 1956. Since Banking companies are not required to prepare its account in accordance with provisions of Part II and Part III of Schedule VI of the Companies Act, 1956 the charging section and computation provisions cannot apply at all as such a case was not intended to fall within charging section.
- Hence, the HC held that that the provisions of section 115JB(2) do not apply to the banking companies.