

A C.I.T., BARODA

v.

ISHWAR BHUVAN HOTELS LTD., BARODA
(Civil Appeal No. 2594 of 2006)

FEBRUARY 8, 2008

B [S.H. KAPADIA AND B. SUDERSHAN REDDY, JJ.]

C *Income Tax Act, 1961 – s. 36 (1) (iii) – Borrowing on capital assets not put to use in the concerned financial year – Interest paid on – Whether can be permitted as allowable deduction under the provision – Held: Yes.*

D *Dy. Commr. of Income Tax, Ahmedabad vs. M/s. Core Health Care Ltd. in Civil Appeal Nos. 3952-55 of 2002 decided by Supreme Court on 8.2.2008 – relied on.*

D CIVILAPPELLATE JURISDICTION : Civil Appeal No.2594 of 2006.

E From the final Judgment and Order dated 19.10.2005 of the High Court of Gujarat at Ahmedabad in Tax Appeal No. 529/2003.

P. Vishwanatha Shetty, T. Srinivasa Murthy, Gaurav Agrawal and B.V. Balaram Das for the Appellant.

E.C. Agrawala for the Respondent.

F The Judgment of the Court was delivered by

KAPADIA, J. 1. In this civil appeal filed by the Department the question of law arises for determination which question is as follows:

G “Whether interest paid in respect of borrowings on capital assets not put to use in the concerned financial year can be permitted as allowable deduction under Section 36(1)(iii) of the Income-tax Act, 1961?”

2. Our answer to the above-mentioned question is squarely covered by our decision in favour of the assessee and against the Department in the case of **Dy. Commr. of Income Tax, Ahmedabad v. M/s. Core Health Care Ltd.** in Civil Appeal Nos.3952-55 of 2002. A

3. Accordingly the above question is answered in favour of assessee and against the Department. Consequently the Department's civil appeal is dismissed with no order as to cost. B

K.K.T.

Appeal dismissed. C