

Deputy Commissioner of Income Tax, Ahmedabad v. M/s. Core Health Care Ltd.

Civil Appeal No. 3952 of 2002 / Civil Appeal No. 3953 of 2002 / Civil Appeal No. 3954 of 2002 / Civil Appeal No. 3955 of 2002 / Civil Appeal No. 8509 of 2002 / Civil Appeal No. 8510 of 2002

[2008] 2 SCR 662 | 2008-02-08

Whether interest on borrowing to acquire new machinery for an existing business was deductible before that machinery was put to use under the historical section 36(1)(iii), and whether three separate additional questions had been wrongly refused consideration by the High Court.

36(1)(iii) | 43(1) Explanation 8 | 35D | 80HH | 80-I | 260A

Two-judge bench | S.H. Kapadia, J. | B. Sudershan Reddy, J.

Assessment years: 1992-93, 1993-94, 1995-96, 1997-98

Pre-2004 interest ruling; mixed result and later proviso

The assessee won the interest issue for an existing business under pre-1 April 2004 law. Revenue's six appeals were partly allowed only to remit three separate questions, whose merits were left open. The 2004 proviso was not applied here; the checked Finance Act 2015 amendment removed its extension-of-business limitation from 1 April 2016. Do not use this case as a general present-day deduction rule. Comprehensive later treatment and current law remain unverified.

01 FACTS OF THE CASE

The company manufactured and sold intravenous solutions. In the lead AY 1992-93, its claimed expenditure included Rs.1,56,76,000 interest on borrowing used for new machinery. The AO and CIT(A) disallowed that interest because production on the new machines had not started, relying on Challapalli Sugars. The Tribunal reversed the disallowance and the High Court upheld it. It was undisputed before the High Court that three additional machines were installed and that the case involved the existing business; Revenue had not contended that a new business was set up or commenced in that year (paragraphs 1–6).

During its High Court tax appeals, Revenue also timely applied to add three substantial questions about advertisement expense, section 35D treatment of short-term borrowing, and sections 80HH/80-I relief for proceeds of empty containers. Those amendment applications had been summarily rejected (paragraphs 15–16).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

Under the provision applicable to these years, the assessee had to borrow capital for its business and pay interest on it. Section 36(1)(iii) did not distinguish capital-asset borrowing from revenue-asset borrowing. The relevant use was use of borrowed capital for the business, rather than whether the acquired machine had started production. The act of borrowing was distinct from investment in the asset (paragraphs 8 and 13).

Section 43(1), including Explanation 8, defined actual cost for provisions using that concept, such as depreciation and investment allowances. It did not supply a restriction absent from the then section 36(1)(iii). The Court distinguished Challapalli Sugars as involving borrowing before any business had commenced; Core involved a running business, so the distinction was material (paragraphs 9–10 and 12–13).

The Court expressly limited its decision to law before 1 April 2004. It held the Finance Act 2003 proviso prospective from that date and inapplicable to the four appeal years. It expressly declined to interpret or apply that proviso to post-2004 facts. Although the proviso appears in the statutory quotation in paragraph 7, it was not the governing text for the appeal years (paragraph 11).

Separately, the three proposed additional questions were substantial questions of law and should have been considered by the High Court. Their remittal was procedural relief for Revenue, not a ruling that the contested advertisement, section 35D or empty-container deductions were disallowable (paragraphs 15–17).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

The Rs.1,56,76,000 interest disallowance in the lead facts was held unjustified, and the section 36(1)(iii) question answered for the assessee. Revenue's six appeals were nevertheless partly allowed without costs because the advertisement-expense question, short-term borrowing under section 35D question and sections 80HH/80-I question concerning Rs.26,64,113 from empty-container sales were remitted to the High Court for fresh consideration according to law (paragraphs 14–17).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed: assessee on the historical borrowing-interest merits; Revenue on remittal of three additional questions

CAs 3952–3955 and 8509–8510/2002 partly allowed; three separate questions remitted to the High Court; no costs

Interest issue finally resolved for the assessee under the pre-2004 law; merits of the three remitted questions left open

Existing business and historical assessment years only. No merits allowance or disallowance is established for the three remitted issues, and no general post-2004 permission to deduct pre-use asset interest follows.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Begin with the applicable statutory version and whether there was already a running business. The distinction between borrowing and asset investment explains the historical holding, but cannot erase a later express proviso. Also preserve the mixed outcome: the interest claim succeeded, while three different questions returned to the High Court.

A separately checked official primary text, Finance Act 2015 section 13(a), omits the words limiting the section 36(1)(iii) proviso to extension of an existing business or profession, with effect from 1 April 2016. Read that amendment separately from this judgment's pre-2004 holding. This bounded statutory check does not certify the full intervening amendment history, treatment of a particular later asset, ICDS consequences, present law or any 2025-Act counterpart.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and complete six-appeal group

Source url: [Open cited source](#)

Pdf pages: 1; 5; 6; 14

Paragraphs: Cover; jurisdiction list; 1 and 17

Source role: reported metadata and judicial text

2.

Topic: Lead facts and existing-business limitation

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: 2–6

Source role: judicial text

3.

Topic: Quoted provisions and business-borrowing analysis

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: 7–10

Source role: judicial text

4.

Topic: Appeal years and prospective 2004 proviso

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: 11

Source role: judicial text

5.

Topic: Pre-commencement distinction and interest conclusion

Source url: [Open cited source](#)

Pdf pages: 12; 13

Paragraphs: 12–14

Source role: judicial text

6.

Topic: Three questions remitted and mixed disposal

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: 15–17

Source role: judicial text

7.

Topic: Bounded later enacted amendment to the proviso

Source url: [Open cited source](#)

Locator: Finance Acts; year 2015; section 13 opening and clause (a), effective 1 April 2016

Source role: official statutory html

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

36(1)(iii): Merits holding under the pre-1 April 2004 business-borrowing-interest provision; the later proviso expressly excluded from application to these years

43(1) explanation 8: Actual-cost/depreciation context does not import a pre-use bar into the then section 36(1)(iii)

35d / 80hh / 80-i: Separate short-term-borrowing and empty-container income questions remanded, not decided on merits

260a: Revenue's timely proposed additional substantial questions required High Court consideration

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.H. Kapadia, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY COMPARISONS AND TEMPORAL LIMITS

1.

Source urls: <https://www.incometaxindia.gov.in/w/section-13-121>

Checked provision: Finance Act 2015 section 13(a)

Finding: From 1 April 2016, the amendment omits the extension-of-existing-business-or-profession qualification from the proviso to section 36(1)(iii).

Limit: A specific later enacted amendment is confirmed; the judgment itself governs pre-2004 years and does not interpret the amended proviso. No comprehensive subsequent-treatment, current-law or 2025-Act certification.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 14 PDF pages; SHA-256

252bbaadb5d29aa197dba2dbe92cda751c4bdb4158c168ca37fa1cab9313654b. Original bytes preserved.

Judicial paragraphs 1–17 occupy physical pages 6–14 (SCR 667–675). Physical pages 1–5 are reporter/editorial material. No adjacent judgment.

[Open cited source rendition](#)

Paragraph 11 lists the four years for the batch. The detailed facts are from CAs 3952–3955/2002 and AY 1992-93; no individual mapping is supplied for all six appeals.

The editorial narrative on physical page 2 attributes the High Court appeals and amendment applications to the assessee. Judicial paragraphs 2, 3 and 15–17 identify Revenue as the appellant/applicant; the note follows the judicial text.; The cover names CAs 3952–3955/2002; the jurisdiction page and operative paragraph 17 also include CAs 8509–8510/2002. All six are included.; Paragraph 7 prints the post-2003 proviso in its statutory quotation, but paragraph 11 expressly says it is prospective from 1 April 2004 and not applicable to these appeal years.; The language describing section 36(1)(iii) as a code by itself addresses the rejected actual-cost argument in this historical setting. It is not treated as immunity from every other statutory disallowance or the later proviso.; The advertisement, short-term loan and empty-container questions are reproduced as questions remitted, not adopted merits conclusions. Challapalli Sugars, India Cements, Calico Dyeing and Associated Fibre are discussed only to the extent reproduced or analysed here.

STATUTORY SCOPE

Current statutory equivalence and 2025 Act applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial or statutory audit. Any actually checked statutory comparison is separately identified and bounded; no current-law or 2025-Act certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 14](#)

SHA-256: 252bbaadb5d29aa197dba2dbe92cda751c4bdb4158c168ca37fa1cab9313654b

[official statutory html](#)

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