

Joint Commissioner of Income Tax, Valsad, Gujarat v. M/s. United Phosphorous Ltd.

Civil Appeal No. 1183 of 2008

[2008] 2 SCR 658 | 2008-02-08

Was interest on borrowing for capital assets not put to use deductible, and did the partial-depreciation question for a block of assets require High Court determination under section 260A?

36(1)(iii) | 32(1), Explanation 5 | 34(1) | 260A

Two judges | S.H. Kapadia, J. | B. Sudershan Reddy, J.

Assessment years: See the source-scope notes; no year inferred.

Mixed outcome: depreciation merits left undecided

Interest was decided for the assessee, but the partial-depreciation question alone was remitted to the High Court. No depreciation merits answer or Explanation 5 retrospectivity ruling was given; the later remand outcome is not verified. The incorporated interest reasoning concerns historical pre-1 April 2004 law and must be read with later statutory changes. Comprehensive later treatment, current-law applicability and Income-tax Act, 2025 mapping remain not_verified.

01 FACTS OF THE CASE

The Department challenged Gujarat High Court's judgment dated 8 January 2002 in Tax Appeal No. 2 of 2002. After condoning delay and granting leave, the Supreme Court stated two questions: deduction under section 36(1)(iii) of interest on borrowings for capital assets not put to use in the concerned financial year, and whether the assessee could choose to claim partial depreciation for a block of assets (physical 2/SCR 659 F-G, appellate recital; physical 3/SCR 660 A-D, paragraphs 1-3).

The High Court had relied on CIT v. Mahendra Mills, (2000) 243 ITR 56, for the assessee's option to claim depreciation. The Supreme Court report does not state the assessment years, interest or depreciation amounts, the particular assets, or the amount or proportion of depreciation claimed. The plural reference to assessment years in paragraph 5 does not supply their numerical identity (physical 3-4/SCR 660-661).

Source: [reported judgment / paragraphs Appellate recital and paragraphs 1-5 / PDF pages 2, 3, 4 / identity and judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

On the first question, paragraph 4 applied Core Health Care, Civil Appeal Nos. 3952-3955 of 2002, as squarely covering the answer in favour of the assessee. That interest issue was decided; it was not included in the remand. The incorporated authority's running-business reasoning and express pre-1 April 2004 boundary must remain attached to that conclusion (physical 3/SCR 660 D-E; Core, physical 7-13, paragraphs 6-14).

The Court treated the second question differently. Mahendra Mills had concerned a setting without the block-of-assets concept; section 34(1) had meanwhile been omitted with effect from 1 April 1988. Those matters made the partial-depreciation question a substantial question of law for the High Court under section 260A. The Supreme Court set aside the High Court's order on that question and directed it to decide whether the assessee had a legal option to claim partial depreciation for the block (physical 3/SCR 660 E-H, paragraph 5).

The High Court was also asked to consider whether Mahendra Mills applied to the assessment years involved and to take account of the scope of Explanation 5 to section 32(1), introduced by the Finance Act, 2001. These are express directions for further determination. The Supreme Court did not hold here that partial depreciation was either permissible or impermissible, and did not decide Explanation 5's retrospective or prospective operation (physical 4/SCR 661 A-B, continuation of paragraph 5).

Source: [reported judgment / paragraphs Paragraphs 4-5 / PDF pages 3, 4 / judicial text](#); [bounded cited primary judgment / paragraphs Paragraphs 6-14, bounded incorporated interest reasoning and historical limit / PDF pages 7, 8, 9, 10, 11, 12, 13 / judicial text](#)

03 JUDICIAL DECISION

Question 1 was answered in favour of the assessee and against the Department. Only the High Court's determination on question 2 was set aside and that question remitted for reconsideration. Revenue's single civil appeal was accordingly partly allowed, with no order as to costs (physical 3-4/SCR 660-661, paragraphs 5-6).

Source: [reported judgment / paragraphs Paragraphs 5-6 / PDF pages 3, 4 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed: assessee on interest; Revenue obtained a depreciation-only remand, with no depreciation merits winner

Revenue's appeal partly allowed; question 2 alone remitted to the High Court

Interest decided for assessee; partial block-depreciation issue expressly left for High Court decision

No final answer on partial depreciation, no finding of retrospective Explanation 5 operation, and no verified result of proceedings after this remand.

Source: [reported judgment](#) / [paragraphs Paragraph 6](#) / [PDF pages 4](#) / [judicial text](#)

05 AKHB REVIEW POINT

Keep the two outcomes separate. A statement that United Phosphorous either won or lost the whole case would conceal the decisive distinction: its interest claim succeeded, while the legal option concerning partial block depreciation remained open for the High Court. No post-remand High Court outcome has been verified here.

The historical comparison supports caution, not an invented answer. Fresh selected passages of Mahendra Mills identify its pre-1 April 1988 statutory setting and link its non-claim conclusion to sections 32 and 34 (physical 3-4 and 27-29/SCR 467-468 and 491-493). The Department-hosted 2011 compilation records omission of section 34(1) from 1 April 1988; its Explanation 5 text provides that section 32(1) applies whether depreciation was claimed, with an editorial footnote giving insertion by the Finance Act, 2001 from 1 April 2002 (physical 210 and 246). This is bounded historical compilation evidence, not authentication of the original amending Gazettes or a determination of the provision's reach in United's unstated years.

The later Plastiblends decision of 9 October 2017 supplies a separate scheme-specific limit. Paragraphs 17-18 reject using a depreciation disclaimer to enlarge a section 80-IA profit-linked deduction and distinguish Mahendra Mills in that setting. Paragraph 19 expressly leaves Explanation 5's declaratory/retrospective versus prospective character undecided. Revenue's contrary submission in paragraph 9 is not the Court's holding. This is a subject-matter comparison, not a verified disposal of United's remand (Plastiblends, physical 11-18/SCR 114-121).

The interest limb also needs version control: Core paragraph 11 addresses pre-1 April 2004 law, and the separately checked Finance Act, 2015 section 13(a) removes the proviso's existing-business-extension restriction from 1 April 2016. Identify the relevant year, statutory text, deduction scheme and precise claim before relying on either limb. Comprehensive later treatment, current-law applicability and Income-tax Act, 2025 mapping remain not_verified.

Source: [bounded cited primary judgment / paragraphs Unnumbered historical framework and final reasoning / PDF pages 3, 4, 27, 28, 29 / judicial text](#); [bounded later subject matter comparison / paragraphs Paragraphs 9-20; especially 17-19 / PDF pages 11, 12, 13, 14, 15, 16, 17, 18 / judicial text](#); [department hosted historical statutory compilation / paragraphs Explanation 5 and editorial footnote 11; section 34\(1\) omission and footnote 57 / PDF pages 210, 246 / historical statutory compilation](#); [bounded cited primary judgment / paragraphs Paragraph 11 / PDF pages 11, 12 / judicial text](#); [official statutory html / paragraphs Finance Act, 2015, section 13\(a\) / official statutory text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 1183 of 2008

Outcome: Partly allowed. Interest answer for assessee retained; High Court order set aside only on partial-depreciation question and that question remitted

Issue outcomes

1.

Issue: Section 36(1)(iii) interest

Result: Decided for the assessee by applying Core Health Care

2.

Issue: Option to claim partial depreciation for a block of assets

Result: Not decided on merits; substantial question under section 260A requiring reconsideration by the High Court

3.

Issue: Scope and temporal operation of Explanation 5 and applicability of Mahendra Mills

Result: Directed to be considered by the High Court; no final determination here

Costs: No order as to costs (operative text uses the singular cost)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

A substantive borrowing-interest decision and a distinct reasoned section 260A remand on partial depreciation of a block of assets. Section 34(1) omission, the block concept and Explanation 5 are remand considerations, not a completed merits determination.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.H. Kapadia, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Authority: Finance Act, 2015, section 13(a)

Relationship: subsequent statutory amendment not judicial overruling

Result: Official enacted text states removal of the existing-business-extension restriction in the section 36(1)(iii) proviso from 1 April 2016.

Source pinpoints

1.

Source url: [Open cited source](#)

Paragraphs: Section 13 heading, Finance Acts/2015 identity, section 13(a)

Source role: official statutory text

Limit: Does not certify the complete amendment chain, present law, treatment of a particular later borrowing or any 2025-Act mapping.

2.

Case: Plastiblends India Ltd. v. Additional Commissioner of Income Tax, Mumbai and Anr.

Decision date: 2017-10-09

Relationship: bounded later subject matter comparison not verified direct treatment

Result: Paragraphs 17-18 prevent a depreciation disclaimer from enlarging the section 80-IA deduction; paragraph 19 expressly leaves Explanation 5 temporal operation undecided.

Source pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 17; 18

Paragraphs: Paragraphs 17-20

Source role: judicial text

Limit: Selected passages only; no direct treatment of this United Phosphorous judgment or disposal of its remand is claimed.

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Finance Act, 2001 insertion of Explanation 5 to section 32(1), scope left for the High Court; Section 36(1)(iii) proviso and section 43(1), Explanation 8: bounded Core Health Care comparison; Finance Act, 2015, section 13(a): separately verified subsequent statutory limit; Section 80-IA: separate later Plastiblends comparison only

DATED OFFICIAL STATUTORY HTML COMPARISONS AND READING LIMITS

1.

Kind: official statutory html

Title: Income Tax Department Finance Act 2015, section 13: Amendment of section 36

Url: [Open cited source](#)

Accessed at: 2026-10-05T17:13:24+00:00

Review scope: Freshly reopened official HTML; page identity Finance Acts/2015, section 13 heading and enacted section 13(a) text with the stated 1 April 2016 commencement read. No PDF bytes/hash, full-Act authentication or complete current-law consolidation claimed.

SOURCE & VERIFICATION

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

Identified source rendition: 4 PDF pages; SHA-256
ace6b688764827c4d7083e571171294d3e610db6629909679cf25689da69b3fe. Original bytes preserved.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

Printed SCR citation, date, bench and proceedings verified from the primary text and all primary images. Frozen catalogue INSC identifiers not independently authenticated in this review.

Valsad and United Phosphorous are the spellings in the primary images; OCR variants Valsao and changes to the company name are not adopted.; One appeal, despite the judicial reference to assessment years in the plural. No numerical assessment year, amount, asset description or percentage of partial depreciation is supplied.; The High Court order is set aside only on question 2. The interest answer remains for the assessee and the appeal is partly allowed, not wholly dismissed or wholly allowed on merits.; The reasoned finding of a substantial question under section 260A is a holding; directions to consider Mahendra Mills and Explanation 5 are not final depreciation conclusions.; Mahendra Mills and Plastiblends are fresh selected primary comparisons only; their full opinions are not claimed re-read. Neither is presented as establishing the later outcome of this remand.; The 2011 compilation is selected historical text and editorial amendment-footnote evidence. Original amending Gazettes, every intervening version and present applicability remain unverified.

No assessment year is printed in this primary. Years appearing in Core Health Care or other comparison authorities are not imported.

One Revenue appeal from Gujarat High Court judgment dated 8 January 2002 in Tax Appeal No. 2 of 2002. Delay condoned and leave granted. No SLP number is printed in this rendition.

STATUTORY SCOPE

No Income-tax Act, 2025 crosswalk or automatic carryover. Complete amendment history, commencement, savings and present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Only specifically described primary comparisons and statutory limits are verified. Comprehensive later treatment, present applicability and 2025 mapping remain not_verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 4](#)

SHA-256: ace6b688764827c4d7083e571171294d3e610db6629909679cf25689da69b3fe

[bounded cited primary judgment - PDF pages: 14](#)

SHA-256: 252bbaadb5d29aa197dba2dbe92cda751c4bdb4158c168ca37fa1cab9313654b

[Income Tax Department Finance Act 2015, section 13: Amendment of section 36](#)

[bounded cited primary judgment - PDF pages: 30](#)

SHA-256: 0fe7018d4db9828c1f1a9893788f9222d73e3cc8b30eeca3ed53fae2ca3b208e

[bounded later subject matter comparison - PDF pages: 18](#)

SHA-256: 4bf725c4c2524e284537363ff7ce55a842fc09338e3a06e8592e03f67e5c83fe

[department hosted historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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