

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**TAX APPEAL No.526 of 2003****A.C.I.T. - Appellant(s)****Versus****THE ARVIND POLYCOT LTD. - Opponent(s)****Appearance :**

MR MANISH R BHATT for Appellant(s) : 1,

MR JP SHAH for Opponent(s) : 1,

CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA**and****HONOURABLE MS.JUSTICE H.N.DEVANI****Date : 19/10/2005****ORAL ORDER****(Per : HONOURABLE MR.JUSTICE D.A.MEHTA)**

1. The appellant-revenue has proposed the following three questions:

(a) "Whether the appellate tribunal is right in law and on facts in allowing the assessee's claim for Rs.1,43,000 as accrued liability on proportionate premium payable on redemption of debenture, though the said liability had not arisen during the year and the debentures were to be redeemed after 7 years on 12-8-92?"

(b) "Whether the appellate tribunal is right in law and on facts in holding that the assessee is entitled to allowance of foreign tour expenses of Rs.2,00,380 when the relevant portion of the tour report itself mentioned that the visit was meant for acquisition of airjet looms and airjet spinning machinery?"

(c) "Whether the appellate tribunal is right in law and on facts in holding that the assessee is entitled to deduction of Rs.62,16,764 being the capitalised interest on the cost of uninstalled machinery u/s.36(1)(iii) despite the clear provision of Explanation 8 of section 43(1) of the Act ?

2. Heard Mr.M.R.Bhatt, learned Senior Standing Counsel for the appellant. In relation to proposed question No.1, he has fairly submitted that the Tribunal has decided the issue on the basis of decision in case of *Madras Industrial Investment Corporation Ltd. Vs. Commissioner of Income-tax*, [1997] 225 ITR 802 (SC) rendered by the Apex Court.

3. In so far as question No.2 is concerned, the Commissioner (Appeals) and the Tribunal have concurrently found that the expenditure on foreign tour had been incurred for acquiring up to date knowledge by visiting the trade fair in Germany, the visit was by technical personnel of the assessee-company, no machinery was in fact purchased and hence, the expenditure is not on capital account.

4. In so far as question No.3 is concerned, again it is an admitted position that the Tribunal has decided the matter in light of the ratio laid down by this Court in the case of *Deputy Commissioner of Income-tax Vs. Core Healthcare Limited*, [2001] 251 ITR 61 (Guj.). Mr.Bhatt hastened to state that against the said decision the revenue has filed Special Leave Petition and the same has been granted (*Reference: S.L.P.(C) Nos.12654-57 of 2002-[2002] 257 ITR (Statutes) Pg.34*).
5. In the aforesaid circumstances, the impugned order of the Tribunal does not give rise any substantial question of law. The appeal is, accordingly, dismissed.
6. In so far as question No.3 is concerned, the Revenue is granted leave to appeal in light of the pendency of the appeal before the Apex Court.

*Bhavesh**

Sd/- [D.A. MEHTA, J] Sd/- [H.N. DEVANI, J]