

**SUPREME COURT OF INDIA**

Commissioner of Income Tax, Baroda

Vs.

Ishwar Bhuvan Hotels Ltd. Baroda

(S.H. Kapadia and B. Sudershan ReddyJJ.)

C.A.No.2594 of 2006

08.02.2008

**JUDGMENT**

**S.H.Kapadia,J.**

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

"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 favor of the assesses and against the Department in the case of *Dy. Commr. of Income Tax, Ahmadabad v. M/s. Core Health Care Ltd. in Civil Appeal Nos.3952-55 of 2002.*

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