

ITEM NO.110

COURT NO.6

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 1665-1670/2016

COMMR.OF INCOME TAX,GANDHINAGAR

APPELLANT(S)

VERSUS

GUJARAT INDUSTRIAL INVESTMENT CORP.
(WITH INTERIM RELIEF AND OFFICE REPORT)

RESPONDENT(S)

Date : 29/09/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s)

Mr. K. Radhakrishna, Sr. Adv.
Mr. S.A. Haseeb, Adv.
Mrs. Anil Katiyar, Adv.
Mr. A.P. Mayee, Adv.
Mr. B. V. Balaram Das, Adv.

For Respondent(s)

Mr. Ramesh P. Bhatt, Sr. Adv.
Mr. Bhargava V. Desai, Adv.
Ms. Akriti Dewan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed
order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 1665-1670/2016

COMMISSIONER OF INCOME TAX,
GANDHINAGAR . . . APPELLANT

VERSUS

GUJARAT INDUSTRIAL INVESTMENT
CORPORATION . . . RESPONDENT

ORDER

1. Four questions were framed by the High Court for adjudication in the appeals before it under Section 260A of the Income Tax Act. The said questions are extracted below:

"1 Whether the Appellate Tribunal is right in law in holding that the interest on debentures cannot be equated with advancement of loans and thereby, not chargeable to Interest Tax under the Interest Tax Act, 1974?

2. Whether the Appellate Tribunal is right in law and on facts in holding that the respondent is liable to interest tax only on the net interest received by it and not the gross interest?
3. Whether the Appellate Tribunal is right in law and on facts in excluding the amount of upfront fees and other income received by the respondent in calculating the chargeable interest under the Income Tax Act, 1974?
4. Whether the Appellate Tribunal is right in law in holding that the amounts given to other Corporations would be deposits and the interest thereon would not be chargeable interest under the Interest Tax Act, 1974?

2. All the aforesaid four questions were decided against the Revenue and in favour of the Assessee giving rise to the present appeals. In the present appeals by order dated 20th July, 2007 a limited notice was issued on the following questions:

- "a) Whether interest on debentures and upfront fees are chargeable to tax under the Interest Tax Act.
- b) Whether interest liability, if any, should be computed on net basis or gross interest basis under the said Act.
- c) Whether interest on monies lent to other corporations would attract the provisions of the said Act."

3. We have read and considered the order of the learned Income Tax Appellate Tribunal ("Appellate Tribunal" for short) and the order of the High Court reiterating the view taken by the learned Appellate Tribunal on the aforesaid three questions. We have also taken into account the definition of the term "interest" as contained in Section 2(7) of the Interest Tax Act, 1974. On such consideration, we hold that the provisions of the said Act by virtue of the definition would have no

application to the transactions in question making the Assessee liable to pay tax under the said Act. Consequently, we hold that the decision of the learned Appellate Tribunal as upheld by the High Court insofar as questions in issue are concerned would not require any interference. The appeals consequently are dismissed.

.....,J.
(RANJAN GOGOI)

.....,J.
(PRAFULLA C. PANT)

NEW DELHI
SEPTEMBER 29, 2016