

**IN THE SUPREME COURT OF INDIA**

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2051 OF 2007

**Rakesh Shantilal Mardia, Ahmedabad ...Appellant(s)**

Versus

**Deputy Commissioner of Income Tax ...Respondent(s)**

With Civil Appeal No.2052/2007 and Civil Appeal No.2053/2007

O R D E R

Heard learned counsel on both sides.

For the sake of convenience, we may refer to the facts in Civil Appeal No.2051 of 2007, which concerns Assessment Year 1995-1996.

We find from the records that the assessee has computed his interest income arising on the difference between purchase price of the debenture and redemption price after six years and calculated the income on amortization basis.

Today, the controversy is very narrow. The question is, whether such interest income should be taxed on accrual basis in the year of allotment of debenture itself or whether it should be taxed on spread-over basis?

At this point of time, in our view, it would be futile to ask the Department or the assessee to re-compute the income as it would merely be a theoretical exercise. On principle, the matter has also been settled by various decisions of the Court, including the judgement of the Bombay High Court in the case of Taparia Tools Limited vs. Joint Commissioner of Income Tax, reported in [2003] 260 I.T.R.102, which refers to matching principle in order to arrive at the real income of the assessee.

In the circumstances, on the peculiar facts of this case and in order to avoid further litigation, we set aside the order of the High Court and restore the order passed by the Income Tax Appellate Tribunal.

Consequently, the civil appeals filed by the assesseees are allowed.

No order as to costs.

.....CJI.

[S.H. KAPADIA]

.....J.

[MADAN B. LOKUR]

New Delhi,

September 13, 2012.