(2007) 12 GUJ CK 0048

Gujarat High Court

Case No: Income Tax Reference No. 21 of 2003

Commissioner of Income Tax		APPELLANT
	Vs	
Shastra Investment Pvt. Ltd.		RESPONDENT

Date of Decision: Dec. 12, 2007

Acts Referred:
Income Tax Act, 1961 â€” Section 256(2)

Citation: (2007) 12 GUJ CK 0048

Hon'ble Judges: Z.K. Saiyed, J; Anil R. Dave, J

Bench: Division Bench

Advocate: Manish R. Bhatt, for the Appellant; R.K. Patel, for Respondent 1, for the Respondent

Judgement

Anil R. Dave, J.
At the instance of the revenue, the following questions of law have been referred to this Court for its opinion by the

Income Tax Appellate Tribunal, Ahmedabad Bench ""A"", under the provisions of Section 256(2) of the Income Tax Act, 1961 (hereinafter referred

to as ""the Act""):

1. Whether in the facts and circumstances of the case, the Appellate Tribunal is right in law that the interest on debentures issued by companies

other than local authority, company or corporation established by a central, State or Provincial Act is not liable to be computed as income under

the head ""interest"" on securities?

2. Whether interest on debentures in all circumstances is liable to be considered Income only when received by the assessee and not when it has

been due?

2. We have heard learned Standing Counsel Shri Manish Bhatt appearing for the revenue and learned advocate Shri B.G. Karia appearing for

learned advocate Shri R.K. Patel for the respondent.

3. Upon hearing the learned advocates and looking to the facts of the case, we need not discuss the facts for the reason that the questions, which

have been referred to hereinabove, are no more res integra.

4. Our attention has been drawn to the judgement delivered in the case of Commissioner of Income Tax Vs. Upnishad Investment P. Ltd. and

Others,

5. Similar questions had been raised in the case referred to hereinabove. We are in respectful agreement with the ratio of the judgement delivered

in the case of Commissioner Of Income Tax v. Upnishad investment Pvt. Ltd. and Ors. (Supra).

6. In view of the law laid down in the judgement referred to hereinabove, we answer the first question in the negative i.e. in favour of the revenue

and against the assessee, whereas the second question is answered in the affirmative i.e. in favour of the assessee and against the revenue.

7. The reference, thus, stands disposed of with no order as to costs.