

## Tax Hotline

April 03, 2003

### RECENT RULING OF THE SUPREME COURT OF INDIA COULD BE REVERSED IF THE PROPOSALS OF THE FINANCE BILL 2003 GET ENACTED

Currently, under the Indian Income Tax Act, 1961 ("ITA"), interest paid on borrowings for expansion of the existing business is allowed as a deduction against the taxable profits of the payer company. A recent ruling of the Supreme Court holds that this deduction would be available even in case of borrowings made by the taxpayer to set up new units of existing business.

Tata Chemicals (part of a leading Industrial Group in India) had set up an additional manufacturing unit in a different geographic location (Babrara, Uttar Pradesh), which, the company claimed was only an expansion of its existing plant in Mithapur, Gujarat. The company contended that the setting up of the plant was part of its expansion plan. However, the tax department contended that the Babrara unit was an independent unit and thus interest on borrowings for setting up of this unit would not qualify for deduction since the ITA permitted deduction only on expenditure incurred for expansion of existing units. Interest expense for setting up of new units should, in view of the revenue authorities, be added to the cost of setting up of the new unit. The Income Tax Appellate Tribunal and the High Court had ruled in favour of the company. At the time of ruling, the High Court had taken into consideration various factors which, inter alia, included common administration of the units, flow of funds, unity of management and unity of accounting. It concluded that all of these factors indicated a functional integration between the two units. Aggrieved by the High Court order, the revenue authorities appealed before the apex court of India. However, the Supreme Court declined to interfere with the ruling given by the High Court.

It needs to be noted that the Finance Bill, 2003 has already suggested a provision which would upset the ratio of the above decision. Albeit, going forward, the Finance Bill proposes that interest paid in respect of capital borrowed for acquisition of new asset for extension of existing business or profession till the time the asset is first put to use, will not be allowed as a deduction. It would appear that the denial for deduction would not apply if the asset acquired for existing business or profession was second hand or if it was in the normal course of replacement due to normal wear and tear of the asset.

### DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

## Research Papers

### M&A In The Indian Technology Sector

February 19, 2025

### Unlocking Capital

February 11, 2025

### Fintech

January 28, 2025

## Research Articles

### Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

### Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

## Audio

### Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

### Arbitration Amendment Bill 2024: A Few Suggestions | Legally Speaking With Tarun Nangia | NewsX

February 12, 2025

**What India's Transition to New Data Protection Law Means for Global Businesses**

January 23, 2025

**India 2025: The Emerging Powerhouse for Private Equity and M&A Deals**

January 16, 2025

---