

## Repair and maintenance is an ongoing process for running business centres; allowable as revenue expenditure

**Summary – The High Court of Bombay in a recent case of DBS Corporate Services (P.) Ltd., (the Assessee) held that expenses on account of repair and maintenance by an assessee who was in business of running business centres is an ongoing process for such business, hence, should be treated revenue in nature**

### Facts

- The assessee was engaged in the business of operating business centres. It debited amount of interest on borrowed funds. Borrowed funds were utilized to set up a new business centre.
- The Assessing Officer was of the view that the proportionate interest paid on borrowed funds would have been utilized for capital work in progress and therefore, should be disallowed. The assessee pointed out that no proportionate interest on the said capital expenditure can be disallowed even if the borrowed funds are utilized for capital expenditure in view of section 36(1)(iii) as it stood during the relevant assessment year. The Assessing Officer, however, disallowed the proportionate interest being attributable to the payment of interest on funds borrowed for capital expenditure.
- The Commissioner (Appeals) and the Tribunal upheld the order of the Assessing Officer.

### Held

- The assessment year involved in the present proceeding is 1999-2000. At that point of time any amount of interest paid on borrowed funds even in respect for utilization for capital purposes would be allowed as a deduction provided the same is for the purposes of the business.
- The Apex Court in the matter of *Dy. CIT v. Core Health Care Ltd.* [\[2008\] 298 ITR 194/167 Taxman 206](#) had observed that under section 36(1)(iii) it does not matter whether borrowed funds are used for capital purposes. All that the section contemplates is that the amount must be borrowed for the purposes of business. The Court held that there is a difference between borrowing of a loan and actual utilization/acquisition of the loan for the purpose of a capital asset. Borrowing of a loan does not bring into existence an asset of enduring nature. The investment on the borrowed capital brings into existence an asset of an enduring nature. The Court observed that a transaction of borrowing is not the same as a transaction of investment.
- Consequently, the interest paid has to be allowed as deduction under section 36(1)(iii) as in existence during the assessment year 1999-2000.