

SC on revenue's SLP in the matter of RBG INVESTMENT from DHC ruling reported at 175 Taxman 291, after condoning delay has dismissed the same (Gist of underlying DHC order: DHC in its ruling, while deliberating tax implications under the Act of a present day finance arrangement (assessee company agreeing with Mutual Funds to provide funds for investment in Convertible Debentures, offered to assessee under rights issue by its sister concern, in lieu of service fees to be paid to Mutual Fund's), held that same is duly backed by commercial expediency (intention to make profits from sale of said debentures after their conversion) and is not merely an arrangement to ensure full subscription for said issue of debentures (as said issue was oversubscribed by 15% and assessee's share in total offer constituted merely 10%). Further, DHC emphasized that if finally the belief of assessee to make profits out of said deal turns in negative and assessee makes loss due to market crash, it will not impact assessee's claim for subject expense (service fees of Mutual Funds) under section 37 of the Act. In this regard, useful; reference may be made to SC ruling in 288 ITR 1 wherein its is held that *even if interest bearing funds are diverted by an assessee to a sister concern free of interest, if the same is backed by "broad business sense", it will not prejudice assessee's claim for deduction u/s 36(1)(iii) of the Act.*)