

**GUJARAT GAS FINANCIAL SERVICES LTD - Appellant(s)**

**Versus**

**INCOME TAX OFFICER - Opponent(s)**

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**Appearance :**

**TAX APPEAL Nos.152/2009 to 155/2009**

MRS SWATI SOPARKAR with MS PAURAMI SHETH for Appellant(s) : 1,

MRS MAUNA M BHATT for Opponent(s) : 1,

**TAX APPEAL Nos. 1489/2009 and 1492/2009** MRS SWATI SOPARKAR for Appellant(s) : 1,

MRS MAUNA M BHATT for Opponent(s) : 1,

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**CORAM : HONOURABLE MR. JUSTICE D.A.MEHTA**

**and**

**HONOURABLE MS. JUSTICE H.N.DEVANI**

**Date : 13/04/2010**

**COMMON ORAL JUDGMENT (Per : HONOURABLE MR. JUSTICE  
D.A.MEHTA)**

1. All these appeals arise out of common order dated 19<sup>th</sup> September, 2008 of **Special Bench** of Tribunal for assessment years 1999-2000, 2001-2002 and 2002-2003 both under the Interest Tax Act, 1974 as well as Income Tax Act, 1961.
2. Initially, the High Court had admitted Tax Appeal Nos.153 of 2009 and 154 of 2009 filed by the assessee challenging the order made under Interest Tax Act. However, subsequently it was brought to the notice of the

Court that even in the matters decided under Income Tax Act, Cross Appeals have been filed by the assessee as well as Revenue. Therefore, all the Cross Appeals were listed together for hearing.

**3. After hearing the parties, it transpires that the Tribunal has initially decided appeals under Interest Tax Act and thereafter sought to apply the said findings in relation to the appeals under the Income Tax Act. Apparently, this has led to a situation where despite the provisions under both the Statutes being different, same yardstick and legal principles have been applied without realising the difference in the language employed by Legislature under both the Statutes.**

4. The Court considered the alternative of deciding those appeals which could be decided independently. **However on going through the impugned order of Tribunal, it is not possible to state to what extent the order of the Tribunal stands vitiated by application of wrong principles by referring to provisions under a different Statute.** Hence, without formulating any question in any of the appeals, the impugned order of Tribunal dated 19<sup>th</sup> September, 2008 is hereby quashed and set aside and all the appeals being Interest Tax Appeal No.36/Ahd/2004 with Interest Tax Appeal No.48/Ahd/2004 and Income Tax Appeal No.35/Ahd/2005 with Income Tax Appeal No.1095/Ahd/2006 with Income Tax Appeal No.515/Ahd/2005 are restored to file of the Tribunal for being decided afresh independently as separate groups under two different Statutes. The appeals stand disposed of accordingly. The questions

formulated in Tax Appeals No.153/2009 and 154/2009 are, therefore, left unanswered.

( D.A. Mehta, J. )

( Harsha Devani, J. )