



**ITA-109-2025 (O&M) and other connected cases**

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**Date of Decision:-13.05.2025**

**1. ITA-109-2007 (O&M)**

M/s Panchsheel Textile Manufacturing and Trading Co. Pvt. Ltd.

....Appellant

VERSUS

Commissioner of Income Tax (Appeals)-1 Ludhiana and Another

....Respondents

**2. ITA-110-2007 (O&M)**

M/s Panchsheel Textile Manufacturing and Trading Co. Pvt. Ltd.

....Appellant

VERSUS

Commissioner of Income Tax (Appeals)-1 Ludhiana and Another

....Respondents

**3. ITA-111-2007 (O&M)**

M/s Panchsheel Textile Manufacturing and Trading Co. Pvt. Ltd.

....Appellant

VERSUS

Commissioner of Income Tax (Appeals)-1 Ludhiana and Another

....Respondents

**CORAM : HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Akshay Bhan, Sr. Advocate with  
Mr. Shantanu Bansal, Advocate for the appellant.

Mr. Ranvijay Singh, Sr. Standing Counsel for the respondents.

**ITA-109-2025 (O&M) and other connected cases**

-2-

**SUDEEPTI SHARMA, J.**

1. These appeals pertaining to Assessment Years 1998-1999, 1999-2000 and 2000-2001, have been preferred against order dated 31.07.2006 passed by the learned Income Tax Appellate Tribunal, Chandigarh in ITA No.171, 14 and 15/Chandi/2005 for the Assessment Years 1998-1999, 1999-2000 and 2000-2001.

2. The following substantial questions of law are involved in the present appeals.

(i) Whether in fact and circumstances of the case, the action of the authorities below not to consider that a single transaction of purchase and of sale outside is a business and the various activities of a business need not be simultaneous?

(ii) Whether in fact and circumstances of the case, the action of the authorities below, the impugned orders Anneuxre A-1 and A-3 are legally sustainable in the eyes of law?

3. Since substantial question of law involved in all three appeals for the Assessment Years 1998-1999, 1999-2000, 2000-2001, is the same and even the impugned order dated 31.07.2006 dealing with all the above referred to assessment years is the same, therefore, all the appeals are taken up together for adjudication and decision at request and with consent of learned counsel for the parties.

**BRIEF FACTS**

4. The brief facts of the case are that appellant was engaged in the business of manufacture and trading of Yarn/Cloths. Upto the Assessment Year 1997-1998, the appellant was not doing any share trading activity and as per the

**ITA-109-2025 (O&M) and other connected cases**

-3-

memorandum and articles of association also, the appellant was not entitled to carry on such activity. On 13.03.1997, the memorandum of articles of association was amended. Object No.28 in the memorandum was amended as under:-

*“To deal, invest in and acquire and hold, sell, buy or otherwise deal in shares, debentures, debenture-stock, bonds, units, obligations and securities issued or guaranteed by Indian or Foreign Governments, State, Dominions, Sovereigns, Municipalities, or Public authorities or bodies and shares, stocks, debentures, debenture stocks, obligations and securities issued and guaranteed by any company, corporation, firm or person whether incorporated or established in India or elsewhere.*

*The amendments in the memorandum were approved by the Board of Directors in the meeting held on 10.03.97 and shares holders in their annual general meeting on 13.03.97. On 13.03.97, the Board of Directors of the Company decided to start trading in shares. The relevant portion of the minutes is reproduced hereunder:-*

*“To carry on the business of trading in shares/securities”*

*The Board was informed that the company is having large amount of surplus funds and it was proposed that the company may start trading activities in shares and other securities and finance activities.”*

5. In view of the amendment as referred to above, the appellant started trading in shares. For the same, the appellant borrowed money for purchase of

**ITA-109-2025 (O&M) and other connected cases**

-4-

shares. The Assessing Officer while framing assessment for the Assessment Years 1998-1999, 1999-2000 and 2000-2001 vide his orders dated 19.03.2001, 28.02.2002 and 28.02.2003 respectively, for the above referred to assessment years disallowed the entire business loss on account of interest paid on borrowing of the amount for investing in the shares of M/s Vardhman Polytex Limited on the ground that purchase of shares of M/s Vardhman Polytex Limited is not for the purpose of trading but is in the nature of an investment.

6. The appellant challenged the same by filing an appeal before the Commissioner of Income Tax (Appeals) – 1, Ludhiana, who vide its order dated 05.10.2004 allowed the appeal for the Assessment Year 1998-1999 and vide its order dated 17.09.2004 partly allowed the appeals pertaining to Assessment Years 1999-2000 and 2000-2001. The respondent filed appeal against orders dated 05.10.2004 and 17.09.2004 before the learned Income Tax Tribunal, Chandigarh, who vide its order dated 31.07.2006, allowed the appeals filed by the respondents.

7. Hence the present appeals.

**SUBMISSIONS**

8. Learned counsel for the appellant contended that intention of the appellant to carry on business of trading in shares/securities is clear from the amendment in the memorandum which was approved by the Board of Directors in their meeting dated 10.03.1997. Further, the appellant had duly reflected shares as stock-in-trade and the balance sheet was duly audited by the auditors. Therefore, learned Assessing Officer as well as learned Tribunal totally ignored the fact that the appellant had duly reflected the shares as stock-in-trade and not as an asset and

**ITA-109-2025 (O&M) and other connected cases**

-5-

wrongly held that the appellant had purchased the shares of M/s Vardhman Polytex Ltd. not with the intention of trading in such shares but purely as an investment, therefore, is not entitled to deduction on account of the interest paid on money borrowed for acquisition of such shares.

He further contended that the Assessing Officer has given different treatment to the shares of other companies by holding that sale of shares of other companies are meant for trading and of M/s Vardhman Polytex Ltd. as an investment. Therefore, he prayed that present appeals be allowed and order dated 31.07.2006 passed by learned Tribunal, while deciding appeals of the respondents for Assessment Years 1998-1999, 1999-2000 and 2000-2001 be set aside.

9. *Per contra*, learned counsel for the respondents contends that learned Tribunal has rightly allowed the appeal filed by the respondents since the appellant had purchased a large amount of shares and kept the same for a long duration and inspite of the fact that the price of shares arose upto Rs.48.25 but still did not sell the same to earn huge profit, therefore, it clearly reveals that appellant had purchased the said shares as long term investment and not for trade. He, therefore, prays that present appeals be dismissed.

10. We have heard learned counsel for the parties and perused the files of these cases.

11. The question involved for consideration in the present appeals is as to whether the shares purchased and held by the appellant of its group companies i.e. M/s Vardhman Polytex Ltd., constitute stock-in-trade and the appellant would be



**ITA-109-2025 (O&M) and other connected cases**

-6-

entitled to deduction under Section 36(1)(iii) on the amount of interest paid in respect of money borrowed for utilisation in the purchase of said shares?

12. Before proceeding further it would be relevant to reproduce Section 36(1) (iii) of Income Tax Act, 1961 before amendment by Finance Act, 2003 and which was relevant and applicable in the years 1998-1999, 1999-2000 and 2000-2001 and to reproduce relevant portion of the impugned order dated 31.07.2006 passed by the learned Income Tax Tribunal, Chandigarh.

13. Relevant portion of Section 36(1)(iii) is reproduced as under:-

**“Other Deductions:-**

Section 36(1)(iii) of the Act, is reproduced as under:-

*“Section 36 (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in Section 28:-*

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xxxx

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*(iii) the amount of the interest paid in respect of capital borrowed for the purpose of the business or profession.*

*Explanation :- Recurring subscriptions paid periodically by shareholders, or subscribers in Mutual Benefit Societies which fulfil such conditions as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause;”*

14. Relevant portion of order dated 31.07.2006 passed by learned Income Tax Appellate Tribunal, Chandigarh is reproduced as under:-

*13. In the present case, the assessee was not earlier engaged in the purchase and sale of shares. However, from the previous year, relevant to assessment year 98-99, it has started the business of trading in shares. Some shares have been purchased and some sold*

**ITA-109-2025 (O&M) and other connected cases**

-7-

*and, therefore, the activity of the assessee being engaged in the trading of shares has been accepted in assessment year 1999-2000 and 2000-2001. We therefore, do not find any justification for not treating the assessee as a trader even for assessment year 98-99 also, So, however, as pointed out earlier, it is not necessary that all the shares purchased by the assessee are for the purpose of trading. It is, therefore, necessary to consider the facts and circumstances of this case to record a finding regarding the nature of purchases in respect of specified shares.*

*14. Assessee has made substantial investment in the purchase of shares of M/S Vardhman Polytex Ltd. We have reproduced the findings of the Assessing Officer relating to the shareholdings of the assessee group of companies. The holdings of the assessee company in M/S Vardhman Polytex Ltd is about 25% and when the share of other group companies are included, it becomes abundantly clear that shareholdings of the assessee group companies is more than 50% by virtue of which the control of M/S Vardhman Polytex Ltd. vests with the assessee group of companies. The Assessee having purchased the shares of M/S Vardhman Polytex Ltd. has retained the shares till date as confirmed by the Id. Counsel during the course of hearing of these appeals barring sale of shares to own associates. Though, admittedly, holding the shares for some years for the purpose of earning more profit may not necessarily lead to the conclusive that assessee had no intention of trading in such shares, yet facts and circumstances of this case clearly demonstrate that the intention of the assessee at the time of acquisition of the shares was for the purpose of long term investment as also having controlling interest over the company, namely M/S Vardhman Polytex Ltd.*

*15. Taking the totality of facts and circumstances of this case into consideration, we are of the view that the CIT(A) was not justified in holding that assessee had purchased the shares of M/S Vardhman*

**ITA-109-2025 (O&M) and other connected cases**

-8-

*Polytex Ltd., with the intention of trading in such shares. In the light of the said finding we proceed to consider as to whether the assessee was entitled to deduction on account of interest paid on money borrowed for the acquisition of such shares. Since the purchase of shares by the assessee of M/S Vardhman Polytex Ltd., is not in the course of business of trading in shares, no deduction of interest paid on borrowed money for the purchase of such shares is deductible as expenditure incurred for the purpose of business. The Hon'ble Supreme Court in the case of Rajasthan State Warehousing Corpon. V.CIT, 242 ITR 450(SC) laid down the principle that if the assessee carries on different ventures, the expenditure of one venture, cannot be allowed as a deduction against the income of other venture, unless the business of different venture is indivisible. In the said case, their lordships laid down the following principles of law:-*

- i) if the income of an assessee is derived from various heads of income, he is entitled to claim deduction permissible under the respective head whether or not computation under each head results in taxable income;*
- ii) if the income of an assessee arises under any of the heads of income but from different items, and income from one or more items alone is taxable whereas income from the other item is exempt under the Act, the entire permissible expenditure in earning the income from the head is deductible; and*
- iii) in computing 'profits and gains of business or profession', when an assessee is carrying on business in various ventures and some among them yield taxable income and the others do not, the expenditure will be deductible under section 37 if all the ventures carried on by him constituted one indivisible business; but if they do not, the principle of apportionment of the expenditure will apply.*

*It is evident from the principle laid down by the Hon'ble Supreme Court that if the income of the assessee is derived from*

**ITA-109-2025 (O&M) and other connected cases**

-9-

*various heads of income, he is entitled to claim deduction permissible under the respective heads, Deduction permissible under one head cannot be claimed under a different head. It is only if the income of an assessee arises under the head profits and gains of business from different ventures and income from one or more ventures is taxable whereas income from the other venture is exempt under the Act, the entire permissible expenditure in earning the income from the head was held to be deductible.*

*In the present case, once it is held that the purchase of shares by the assessee of M/S Vardhman Polytex Ltd is not in the course of its activity of trading in shares, any income derived from the said shares is not assessable under the head 'profits and gains of business'. Therefore, the interest which is paid by the assessee on the borrowing utilized for the purpose of acquisition of shares of M/S Vardhman Polytex Ltd. would not be admissible as a deduction under the head 'profits and gains of business'.*

*16. The next question that arises for our consideration is as to whether the assessee would be entitled to deduction on account of interest on borrowed money utilized for the purchase of shares of M/S Vardhman Polytex Ltd. under the head 'Income from other sources.' We are conscious of the decision of Supreme Court in the case of CIT V. Rajendra Prasad Moody, 115 ITR 519 (SC), wherein their lordships of the Supreme Court held that deduction on account of interest would be permissible under the head income from other sources' even if no dividend is received in the particular year. In the said case, their lordships held that interest on moneys borrowed for investment in shares which had not yielded any dividend was admissible as deduction u/s 57(iii) of the Income Tax Act, 1961 in computing its income from head 'Income from other sources. So, however, deduction u/s 57(iii) is permissible only out of the income assessable u/s 56 under the head 'income from other sources.' From*

**ITA-109-2025 (O&M) and other connected cases**

-10-

*Assessment year 98-99, the dividend income is exempt u/s 10(33) of the Income Tax Act, 1961. The said sub section was inserted by the Finance Act, 1997 w.e.f. 1.4.98. Therefore, computation of dividend income does not fall within the ambit of u/s 56. Consequently, no deduction u/s 57 would be permissible. We are, therefore, of the considered view that the AO was justified in making the disallowance of interest on money borrowed for the purchase of shares of M/S Vardhman Polytex Ltd.*

*17. However, since a doubt has been expressed in regard to computation of interest attributable to the borrowing for the purpose of purchase of such shares done by the AO, the issue is remitted to the file of the Assessing Officer for calculation of actual interest paid by the assessee on such borrowings. The interest utilized for purchase of other shares which are for the purpose of trading is allowable as a deduction as business expenditure u/s 36(1)(iii). We direct the AO to make the disallowance of actual expenditure incurred by the assessee by way of interest on the borrowings utilized for the purpose of shares. The estimation made by the CIT (A) of 15% is without any basis which is being discussed hereafter.*

*18. As a consequence of our decision it would be unnecessary to take aid of section 14A for making the disallowance. However, since the Assessing Officer has referred to the section to support the disallowance and the issue has also been argued before us by the parties, we consider it appropriate to deal with the issue without prejudice to our earlier view.*

*19. It is also pertinent to mention that in the event of our order getting reversed by any superior court, application of section 14A would be relevant. We accordingly proceed to consider the applicability of section 14A in this case. Section 14A which has been inserted by the Finance Act, 2001, w.e.f. 1.4.1962, reads as under:-*

**ITA-109-2025 (O&M) and other connected cases**

-11-

*"14A. For the purpose of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act. Provided that nothing contained in this section shall empower the Assessing Officer either to reassess under Section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under Section 154, for any assessment year beginning on or before the 1st day of April, 2001.*

*It is evident from a plain reading of the said section that it refers to the computation of total income under Chapter IV. Section 14A would be applicable in such cases where the assessee has indivisible income. Income under Chapter IV has been computed in this case. We have held that the activity of purchase of share of M/S Vardhman Polytex Ltd., is a separate activity and, therefore, interest on borrowed money utilized for such activity is not allowable as a deduction u/s 36(1)(iii). We have also held that no deduction is permissible to the assessee even on the basis of the decision of the Supreme Court in the case of Rajasthan State Warehousing Corpn (supra). However, as pointed out earlier, in the event of our decision getting reversed by any superior Court, application of section 14A would come into play. It maybe pertinent to mention that the necessity for incorporation of section 14A had arisen as a result of the Supreme Court decision in the case of Rajasthan State Warehousing Corpn. V.CIT, 242 ITR 450 SC).*

**20.** *The assessee has derived dividend income from M/S Vardhman Polytex Ltd. which would fall for computation under the head income from other sources. There is a direct nexus between the investments in shares of M/S Vardhman Polytex Ltd. with the borrowings made by the assessee. The said nexus is not disputed. Therefore, interest paid on such borrowings shall have to be deducted from the gross dividend*

**ITA-109-2025 (O&M) and other connected cases**

-12-

*from the said company. However, since dividend income is exempt under section 10(33), the resultant figure, positive or negative, will not fall in the computation of gross total income. Assuming for the sake of arguments that deduction of interest on borrowings utilized for purchase of shares was allowable as a deduction on the authority of the decision of the Supreme Court in the case of Rajasthan Warehousing Corporation (supra), Section 14A would come into play to bar the deduction. We hold accordingly.*

*We may, however, place on record that if the disallowance were to be made only with reference to section 14A, the said disallowance shall not be warranted for the assessment year 1998-99 in view of the proviso to section 14A which debars the AO from invoking section 14A by resorting to section 154 or section 147 for any assessment year beginning or before 1st day of April, 2001. In this case, assessment for assessment year 98-99 was completed on 19.3.01 and, therefore, section 14A, if at all applicable, could not be invoked for this assessment year. So, however, as held earlier, the assessee is not entitled to deduction out of the exempted dividend income under the head 'income from other sources.' As such, the aid of section 14A for making the disallowance, in our view is unnecessary.*

*21. For assessment year 1999-2000 and 2000-01, the assessee has derived income from interest as well as dividend income. The AO has repeated his findings as recorded in assessment year 98-99 in regard to shares purchased by the assessee of M/S Vardhman Polytex Ltd. The CIT (A) has followed his order for assessment year 98-99. So, however, he has upheld the applicability of provisions of section 14A and has restricted the disallowance to 15% of the disallowance made by the AO. Proceeding on the basis on which the CIT (A) has dealt with the issue. We have no hesitation in expressing our surprise by the arbitrary yardstick applied by him. No basis has been given as to why in this case disallowance of interest could be made to the extent of*

**ITA-109-2025 (O&M) and other connected cases**

-13-

*15% only of the disallowance made by the AO. The CIT (A) has not given any reasons much less valid reasons for restricting the disallowance to 15% of the disallowance made by the AO. In the case of CIT V. Palwal Co operative Sugar Mills Ltd., 197 CTGR 230 (P&H), their Lordships of Punjab and Haryana high Court held that every judicial and quasi judicial body/authority must pass a reasoned order which should reflect application of mind by the concerned authority to the issues/points raised before it. It was further held that requirement of recording of reasons and communication thereof is an integral part of the concept of fair procedure. Their Lordships further held that superior courts can effectively exercise their power only if the order under challenge contains reasons. Any order which is cryptic grossly violates natural justice. In this case, the CIT (A) not having given any reasons for restricting the disallowance to 15% of the disallowance made by the AO, we cannot but set aside this order being contrary to law. In our considered view, in this case, the actual interest paid by the assessee on the borrowings utilized for the purchase of shares of M/S Vardhman Polytex Ltd. is workable. Therefore, there is no reason for resorting to estimate. We therefore, remit the issue to the file of the Assessing Officer for the limited purpose of computation of disallowance on account of interest paid on borrowings utilized for the purchase of shares of M/S Vardhman Polytex Ltd.*

*22. To wind up, we may clarify that whereas we have held that in this case it is not necessary to take recourse to the provisions of section 14A for the purpose of disallowance of interest on borrowings made for the purchase of shares of M/S Vardhman Polytex Ltd. in so far as there is direct nexus between the investments in such shares and the borrowings made by the assessee, the disallowance in any case would be warranted with reference to section 14A for assessment years 1999-2000 and 2000-01. However, we having held that in this case*

**ITA-109-2025 (O&M) and other connected cases**

-14-

*the aid of section 14A is unnecessary, we restore the disallowance for all the three assessment years subject to recalculation of actual disallowance as directed earlier.*

*23. In the result, appeals of the Revenue are allowed for statistical purposes.”*

**ANALYSIS OF THE RECORD**

15. A bare reading of Section 36(1)(iii) of the Act shows that deduction of the amount of interest paid in respect of capital borrowed for the purpose of business or profession shall be allowed. Meaning thereby, if any amount in respect of capital is borrowed for the purpose of business, the amount of interest paid in respect of the same shall be deducted while computing the income as referred to in Section 28 of the Act. Section 28 of the Act deals with the profits and gains of business or profession which are chargeable to income tax.

16. Admittedly, appellant was doing the business of manufacture and trading of yarn/cloths upto the Assessment Year 1997-1998 and was not into any share trading activity. With the intention to carry on the business of trading in shares/securities certain amendments were made in the memorandum which was approved by the Board of Directors in their meeting held on 10.03.1997.

17. Thereafter, the appellant started trading in shares. Appellant duly reflected shares as stock-in-trade. The balance sheet was duly audited by the auditor. The appellant purchased/sold shares of about 24 various companies during the relevant assessment years.

18. It is not the case of the respondent that all the shares of M/s Vardhman Polytex Ltd. were pledged, a perusal of the record shows that 2700 shares were free between 01.04.1997 to 12.05.1997, 26,02,700 shares were free

**ITA-109-2025 (O&M) and other connected cases**

-15-

between 13.05.1997 to 26.10.1997 and then from 27.10.1997 to 10.11.1997. Similarly 17,40,755 shares were free between 11.11.1997 to 12.12.1998. Another 1,60,000 shares were free between 19.07.1999 to 25.07.1999 and 1,93,400 shares were free between 13.12.1999 to 31.03.2000. The appellant in its wisdom and business sense did not sell the shares because of depressed share market.

19. A perusal of the record further shows that the appellant purchased 26 lakhs shares of M/s Vardhman Polytex Ltd. on 30.06.1997, 3500 shares on 27.10.1997 and 1,93,400 shares on 27.09.1999, but since the appellant did not get the rate as per its expectation, therefore it did not consider it prudent to sell them off during that year. However, when the appellant found it appropriate to sell as per the price of its expectation it sold shares worth Rs.1.66 crore during immediate succeeding Assessment Year 1999-2000 and shares worth Rs.1.64 crores in the Assessment Year 2000-2001.

20. A perusal of the whole record further shows that intention of the appellant was to trade in shares of M/s Vardhman Polytex Ltd. since these shares were held as stock-in-trade and not as an investment. Intention of the appellant to hold the shares as stock-in-trade is clear and corroborated by sale of shares of M/s Vardhman Polytex Ltd worth crores of rupees at later point of time, as referred to above.

**ANALYSIS OF THE ASSESSMENT ORDERS**

21. The Assessing Officer has treated the shares of other companies which were sold by the appellant as meant for trading whereas shares of M/s Vardhman Polytex Ltd. as investment. Whereas the admitted fact as per record is

**ITA-109-2025 (O&M) and other connected cases**

-16-

that shares of M/s Vardhman Polytex Ltd. were held as stock-in-trade, with an intention to sell. Assessing Officer disallowed the interest paid on money borrowed for purchase of shares of M/s Vardhman Polytex Ltd. in his assessment orders on the ground that all shares of M/s Vardhman Polytex Ltd. purchased by the appellant company belong to its group companies and no part of these shares were sold, therefore these shares were purchased as an asset and not stock-in-trade.

22. Further, Assessing Officer accepted the fact that appellant was engaged in trading of shares and on that premise computed the profit and gains derived from trading of shares of other companies but in the case of shares of M/s Vardhman Polytex Ltd. a separate treatment is given by treating these shares as an asset and not stock-in-trade.

23. Therefore, action of the Assessing Officer in treating the sale of shares of other companies as trading and of M/s Vardhman Polytex Ltd. as investment shows total non-application of mind while framing the assessment.

24. Further, perusal of record shows that the appellant sold shares of different companies in all these years and Assessing Officer accepted the appellant to be trading in shares and allowed the deduction under Section 36(1)(iii) on the amount of interest paid in respect of capital borrowed for the purpose of purchase of such shares whereas so far as the amount of interest paid in respect of the capital borrowed for the purpose of purchase of shares of M/s Vardhman Polytex Ltd. is concerned, the deduction under Section 36(1)(iii) was disallowed on the ground that shares of M/s Vardhman Polytex Ltd. were not sold for long time and that some of the shares of M/s Vardhman Polytex Ltd were pledged without

**ITA-109-2025 (O&M) and other connected cases**

-17-

appreciating the fact that even the shares of M/s Vardhman Polytex Ltd which were free from any pledge were not sold during the relevant years only to gain more profit out of it.

25. Reasoning given by the Assessing Officer while disallowing the deduction under Section 36(1)(iii) on the amount of interest paid in respect of money borrowed for utilisation in purchase of shares of M/s Vardhman Polytex Ltd in his assessment orders dated 19.03.2001, 28.02.2002 and 28.02.2003, for the Assessment Years 1998-99, 1999-2000 and 2000-2001 respectively, is not justified since it is based on assumptions and presumptions.

26. Therefore, argument raised by learned counsel for the appellant that the Assessing Officer has given different treatment to the shares of other companies by allowing the deduction of amount of interest paid in respect of capital borrowed for the purpose of trading in shares is reasonable and carries weight.

27. In view of the above, the reasoning given to disallow the interest on capital borrowed for the purpose of purchase of shares of M/s Vardhman Polytex Ltd by the Assessing Officer, which is accepted by the learned Tribunal, is liable to be set aside being unacceptable.

**ANALYSIS OF THE ORDERS PASSED BY THE LEARNED TRIBUNAL**

28. A perusal of the order dated 31.07.2006 of learned Tribunal shows that the learned Tribunal has specifically stated in para 13 of its order that the appellant was not earlier engaged in the purchase and sale of shares, however from the previous year relevant to Assessment Year 1998-1999, it started the business of

**ITA-109-2025 (O&M) and other connected cases**

-18-

trading in shares. Further that, some shares have been purchased and sold and therefore, the activity of the appellant being engaged in trading of shares has been accepted in Assessment Years 1999-2000 and 2000-2001. Therefore, the learned Tribunal did not find any justification for not treating the appellant as a trader even for the Assessment Year 1998-1999 also, whereas on the other hand the learned Tribunal has observed that it is not necessary that all the shares purchased by the appellant are for the purpose of trading.

29. Learned Tribunal without appreciating the record has taken contradictory stands since on the one hand it is accepted that appellant is involved in trading of shares whereas on the other hand it is observed that appellant had purchased the shares of M/s Vardhman Polytex Limited mainly for the purpose of investment and not for trading and, therefore, it is held that shares of M/s Vardhman Polytex Ltd were not stock-in-trade, only on the ground that same were lying unsold for many years in their stock. Further, that controlling interest of the appellant over M/s Vardhman Polytex Ltd, solidify the conclusion that the said shares were purchased for investment and not for trading purpose.

30. The reasoning given by learned Tribunal is not sustainable since one can hold the purchased shares over a long time to earn more profit because of the escalation in prices of shares. Any prudent person in the business of trading in shares would wait for the best price before selling in order to gain more profit. This by itself cannot be presumed to be an intention to retain the shares as an investment and not for trading (selling).

**ITA-109-2025 (O&M) and other connected cases**

-19-

31. Vide impugned order dated 31.07.2006, learned Tribunal remitted the matter to the Assessing Officer for the limited purpose of computation of disallowance on account of interest paid on borrowing utilised for the purchase of shares of M/s Vardhman Polytex Ltd. During the course of arguments, learned counsel for the parties were asked about the status of the same. Learned counsel for appellant has produced before us the assessment order dated 20.12.2007 passed in compliance of the order dated 31.07.2006 of learned Tribunal whereby the matter was remitted to the Assessing Officer for limited purpose of computation of disallowance on account of interest paid on borrowings utilised for the purchase of shares of M/s Vardhman Polytex Ltd. In assessment order dated 20.12.2007, the reply filed by the appellant to the notices dated 27.11.2006, 28.09.2007 issued under Section 143(2) of the Income Tax Act, 1961 and notice dated 05.10.2007 under Section 142(1) of the Income Tax Act, 1961, whereby the appellant was asked under Section 142(1) of the Income Tax Act, 1961 to re-compute disallowance on account of interest paid on borrowings utilised for the purpose of purchase of shares of M/s Vardhman Polytex Ltd, the appellant stated that it had sold 32,650 shares of M/s Vardhman Polytex Ltd., during the financial year 2005-2006 as well.

**CONCLUSION**

32. In view of the discussion herein-above, this Court concludes that appellant had intention to do business of trading even in case of shares of M/s Vardhman Polytex Ltd. and does not show its intention to keep the shares of M/s Vardhman Polytex Ltd. as an asset, which is apparent from the record as well.

**ITA-109-2025 (O&M) and other connected cases**

-20-

Since appellant had been selling the shares of M/s Vardhman Polytex Ltd also, at different intervals of time, therefore, it can safely be concluded that shares of M/s Vardhman Polytex Ltd purchased by the appellant should also be treated as stock-in-trade just like shares of other companies purchased by the appellant, and not as an investment.

33. Therefore, the substantial questions of law are answered in favour of the appellant-assessee and against the respondent-revenue.

34. In view of the above, all the three aforesaid appeals are allowed. Order dated 31.07.2006 passed by the learned Income Tax Appellate Tribunal, Chandigarh is set aside.

35. Pending applications, if any, also stand disposed of.

**(LISA GILL)**  
**JUDGE**

**(SUDEEPTI SHARMA)**  
**JUDGE**

May 13, 2025  
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Whether speaking/non-speaking : Speaking  
Whether reportable : Yes