

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT),  
'G' BENCH MUMBAI**

**BEFORE SHRI C.N. PRASAD, JM**

**&**

**SHRI M.BALAGANESH, AM**

**ITA No.473/Mum/2016  
(Assessment Year :2007-08)**

**ITA No.474/Mum/2016  
(Assessment Year: 2008-09)**

M/s. Grasim Industries Ltd., Corporate Finance Division A-2, Aditya Birla Centre S.K. Ahire Marg, Worli, Mumbai-- 400030	Vs.	DCIT CEN CIR 1(4) 9 <sup>th</sup> Floor, R.No.902, Old CGO Building M.K.Road, Mumbai
<b>PAN/GIR No.AAACG4464B</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

**ITA No.1120/Mum/2016  
(Assessment Year :2008-09)**

**&**

**ITA No.1121/Mum/2016  
(Assessment Year: 2007-08)**

DCIT CEN CIR 1(4) 9 <sup>th</sup> Floor, R.No.902, Old CGO Building M.K.Road, Mumbai	Vs.	M/s. Grasim Industries Ltd., Corporate Finance Division A-2, Aditya Birla Centre S.K. Ahire Marg, Worli, Mumbai-- 400030
<b>PAN/GIR No.AAACG4464B</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Assessee by	Shri Yogesh Thar
Revenue by	Shri V.Vinodkumar
<b>Date of Hearing</b>	<b>17/09/2020</b>
<b>Date of Pronouncement</b>	<b>11/11/2020</b>

### **आदेश / ORDER**

**PER M. BALAGANESH (A.M):**

These cross appeals in ITA Nos.473/Mum/2016, 1121/Mum/2016, 474/Mum/2016 & 1120/Mum/2016 for A.Yrs.2008-09 & 2007-08 respectively arise out of the order by the Id. Commissioner of Income Tax (Appeals)-13 in appeal Nos.CIT(A)-13/ACIT-7(1)(1)/211/2015-16, CIT(A)-13/ACIT-7(1)(1)/212/2015-16, CIT(A)-12/ACIT-6(3)/28/2010-11 dated 11/12/2015 & 28/06/2011 respectively (Id. CIT(A) in short) against the order of assessment passed u/s.115 WE(3) r.w.s. 254 of the Income Tax Act, 1961 & 115 WE(3) of the Act FBT (hereinafter referred to as Act) dated 02/12/2009 & 20/08/2010 respectively by the Id. Addl. Commissioner of Income Tax, Range-6(3), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in the cross appeals for both the years is calculation of interest u/s.244A of the Act.

3. We have heard rival submissions and perused the materials available on record. We find that this Tribunal vide its common order for A.Yrs. 2006-07 and 2007-08 and 2008-09 dated 19/06/2013 had passed

an order granting relief to the assessee with a direction to reduce certain items from the value of fringe benefits chargeable to tax. We find that subsequently the Id. AO on 14/08/2013 passed an order giving effect to the Tribunal's order for A.Y.2006-07 wherein he correctly allowed interest on advance tax u/s.244A of the Act from the first day of the assessment year till the date of payment of refund as per law. Hence, there is absolutely no grievance left for the assessee for A.Y.2006-07 in this regard. However, the Id. AO on 16/09/2013 while passing order giving effect to the Tribunal's order for A.Y.2007-08 and 2008-09, did not grant interest u/s.244A(1)(a) of the Act from first day of the assessment year till the date of receipt of the Tribunal order (i.e. 23/07/2013) and granted interest on advance tax only from the date of receipt of Tribunal order till passing of refund order. We find that the Id. AO in this order dated 06/09/2013 did not grant any interest on self-assessment tax paid by the assessee u/s.244A(1)(b) of the Act.

3.1. On appeal to the Id. CIT(A) for A.Ys.2007-08 and 2008-09, the Id. CIT(A) vide his order dated 11/12/2016 allowed interest u/s.244A of the Act on advance tax and self-assessment tax paid by the assessee from first day of assessment year and date of payment of self-assessment tax respectively for both the years till the date of grant of refund. However, we find that the Id. CIT(A) dismissed the assessee's ground for allowing interest on the said amount for the period of delay on the alleged ground that it amounts to compensation by way of interest on interest.

4. Aggrieved by the aforesaid order of the Id. CIT(A), the assessee is in appeal before us seeking correct allowance of interest as per law u/s.244A of the Act and revenue is in appeal challenging the order of the

Id. CIT(A) directing the Id. AO to grant interest on self-assessment tax u/s.244A(1)(b) of the Act.

5. It is pertinent to note that the revenue had not preferred any appeal before us challenging the direction of the Id. CIT(A) to grant interest on advance tax from first day of assessment year u/s.244A(1)(a) of the Act and hence, this matter has attained finality. For better appreciation of the facts on record, the following tabulation would be relevant:-

Particulars	A.Y. 07-08	A.Y. 08-09
SA tax paid	October 29, 2007	September 29, 2008
Receipt of tribunal order dated 19.06.2013 by Dept. (common order for A.Y. 06-07 to 08-09) – see page 14 of the FPB.	July 23, 2013	July 23, 2013
OGE to ITAT's Order (impugned order)	September 6, 2013	September 6, 2013
Refund received (tax plus interest on adv. tax from July'13-Sep'13)	October'2013	October'2013
Refund received post CIT(A)'s Order :- a. Interest on advance tax – from 1 <sup>st</sup> day of assessment year till October'2013 (i.e. upto the date of receipt of refund) b. Interest on self-assessment tax – from date of payment till July'2013 (i.e. upto the date of receipt of tribunal order dated 19.06.2013 by Dept.)	July'2016	July'2016

6. We find that assessee has raised ground before us stating that refund granted to the assessee is to be first adjusted against the correct amount of interest due on that date and thereafter, the left over portion should be adjusted with the balance tax. We find that in

the instant case refund was granted to the assessee vide refund order in October 2013 and it was pleaded by the assessee that the said refund is to be adjusted against the correct amount of interest payable thereof to be computed as per the directions of the Id. CIT(A) and only the balance amount is to be adjusted against tax paid. Accordingly, unpaid amount is the tax component and therefore, the assessee would be entitled for claiming interest on the tax component remaining unpaid. In our considered opinion, the same would not tantamount to interest on interest as alleged by the Id. CIT(A) in para 4.2 on his order. Similarly, the refund granted to the assessee in July 2016 is to be adjusted against the correct interest payable on the tax amount remaining unpaid and balance towards tax component. We find that this issue is already settled in favour of the assessee by the following decisions of this Tribunal:-

- a. Decision in the case of Union Bank of India vs. ACIT reported in 162 ITD 142 dated 11/08/2016
- b. Decision in the case of Bank of Baroda vs. DCIT in ITA No.646/Mum/2017 dated 20/12/2018.

7. In view of our aforesaid decision in the facts and circumstances of the instant case and respectfully following the judicial precedents relied upon hereinabove, the alternative argument made by the Id. AR on without prejudice basis, need not be gone into and no opinion is given herein and they are left open.

8. Accordingly, we direct the Id. AO to compute the correct amount of interest allowable to the assessee as directed by the Id. CIT(A) as on the date of giving effect to the Tribunal's order i.e.06/09/2013. We

further hold that the refund granted on 06/09/2013 be first appropriated or adjusted against such correct amount of interest and consequently, the short fall of refund is to be regarded as shortfall of tax and that shortfall should then be considered for the purpose of computing further interest payable to the assessee u/s.244A of the Act till the date of grant of such refund. Accordingly, the grounds raised by the assessee in this regard are allowed for both the years.

9. As already stated, the revenue is in appeal only against the direction of the Id. CIT(A) to grant interest on self-assessment tax paid by the assessee u/s.244A(1)(b) of the Act. We find that the revenue had alleged that interest on self-assessment tax is not payable from the date of payment of tax till the date of receipt of refund as the delay is attributable to the assessee because assessee did not claim refund in the return of income. In this regard, we find that the Id. AR had submitted that delay is not at all attributable to the assessee and that the provisions of Section 244A(2) are not applicable as the assessee while filing its return for A.Yrs. 2007-08 and 2008-09 had indeed made a claim in the return of income by way of notes to the return of income and had also clarified in the said note that tax has been paid on certain fringe benefits only out of abundant caution. We find that this fact has even been noted by the Id. CIT(A) in para 3.3 of his order and also by the order of the Hon'ble Bombay High Court confirming the decision of this Tribunal in relation to fringe benefits wherein it has been mentioned at para 3(e), the assessee had filed such note. Hence, the notes forming part of the return should be read together with the return. Hence, it cannot be said that assessee never made such a claim of interest in the return of income for the respective years. Accordingly, no delay could be attributable on the part of the assessee in this

regard. Hence, the grounds and the arguments advanced by the Id. AR in this regard deserves to be rejected.

10. We also find that the issue of assessee being entitled for interest on self-assessment tax from the date of payment of self-assessment tax till the date of actual payment of refund has been the subject matter of adjudication by the Hon'ble Jurisdictional High Court in the case of Stock Holding Corporation of India Ltd., vs. CIT reported in 373 ITR 282 wherein the head notes alone are reproduced hereunder:-

*“Section 244A, read with sections 140A and 156, of the Income-tax Act, 1961 - Refunds -Interest on (Self assessment tax) - Assessment year 1994-95 - Whether tax paid on self assessment would fall under section 244A(1)(b), i.e. a residuary clause, covering refunds of amount not falling under section 244A(1) - Held, yes - Whether, therefore, interest is payable under section 244A(1)(b) on refund on excess amount paid on self assessment tax - Held, yes - Whether interest is payable from date of payment of tax on self assessment to date of refund of amount under section 244A - Held, yes [Paras 7, 8 and 12][In favour of assessee]”*

11. Similar proposition was laid down by the Hon'ble Jurisdictional High Court in assessee's own case in Income Tax Appeal No.1 of 2004 dated 13/06/2018.

12. Respectfully following the aforesaid decisions of Hon'ble Jurisdictional High Court, we hold that the grounds raised by the revenue are completely devoid on merits and are hereby dismissed.

13. We also find that the tax effect involved in the revenue appeals for A.Ys.2007-08 and 2008-09 are less than the monetary limits prescribed

by CBDT for preferring appeals before this Tribunal by the revenue and hence, deserves to be dismissed on that ground also.

**14. In the result, both the appeals of the assessee are allowed and both the appeals of the revenue are dismissed.**

Order pronounced on 11/11/2020 by way of proper mentioning in the notice board.

**Sd/-**  
**(C.N. PRASAD)**  
JUDICIAL MEMBER

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 11/11/2020  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
ITAT, Mumbai