

IN THE INCOME TAX APPELLATE TRIBUNAL

"D" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.1074/MUM/2024

(Assessment Year : 2020-21)

Deposit Insurance and Credit

Guarantee Corporation,

DICGC, Second Floor, RBI Building,

Byculla, Mumbai Central,

H.O. Mumbai – 400008,

PAN : AAACD2094E

..... Appellant

v/s

DCIT – 3(4)

Mumbai – 400020

Maharashtra

..... Respondent

Assessee by : Shri Rushabh Mehta

Revenue by : Smt. Sanyogita Nagpal, CIT-DR

Date of Hearing – 19/08/2024

Date of Order - 08/11/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 16.01.2024, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*learned CIT(A)*], for the assessment year 2020-21.

2. In this appeal, the assessee has raised the following grounds: –

"1.(a) The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [for short, Ld. CIT(A)-NFAC] grossly erred in facts and law in not appreciating that the refund received of 21803,99,75,450/- in September 2022 ought to have been adjusted against the interest component of Rs.2,45,99,96,654/- leaving the balance deficit of principal/tax refund of 781,99,98,897/- [1885,99,74,347(-)-1803,99,75,450](entitling the assessee of the same along with further interest u/s. 244A thereon from October 2022 onwards till the actual date of granting/crediting the refund of 881,99,98,897/- to the assessee on a future date.

(b) The Ld. CIT(A)-NFAC grossly failed to appreciate that the rule of adjustment of interest component first in collection of taxes by revenue should apply evenly at the time of release of refund to the assessee as well and that there cannot be two different set of rules, one for revenue and another for the assessee which is devoid the principles of fairness and justice.

(c) The Ld. CIT(A)-NFAC erred in facts and law in attributing some delay even on part of the appellant in the process of issuance of refund by the Id. Assessing Officer and wrongly applied the decision of the Hon'ble Apex Court in the case of UOI v. Tata Chemicals Ltd., (2014) 363 ITR 658 (SC)."

3. The issue arising in present appeal pertains to method of calculation of refund due to the assessee after adjusting the refund already granted.

4. The brief facts of the case pertaining to the issue as emanating from the record, are: The assessee is a wholly owned subsidiary of the Reserve Bank of India and its functions are governed by the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 and the Deposit Insurance and Credit Guarantee Corporation General Regulations, 1961 framed by the Reserve Bank of India. The assessee is in the business of insuring deposits and guaranteeing credit facilities to all commercial banks and also eligible co-operative banks governed under the aforementioned statute. For the year under consideration, the assessee filed its return of income on 11.02.2021 declaring a total income of Rs.1550 crore. The return filed by the assessee was processed vide intimation dated 25.11.2021 issued

under section 143(1) of the Act accepting the returned income and determining a refund of Rs.1803,99,75,450/-, which includes the principal amount of Rs.1639,99,77,693/- and interest of Rs.163,99,97,760/- under Section 244A of the Act. Subsequently, the return filed by the assessee was selected for scrutiny through CASS and the assessment was completed vide order dated 01.09.2022 passed under section 143(3) r.w.section 144B of the Act accepting the returned income. Pursuant to the afore-noted order passed under section 143(3), the Assessing Officer ("AO") determined and issued a refund of Rs.1803,99,75,450/- on 27.09.2022 which consists of interest under section 244A of Rs.163,99,97,760/- and the principal tax amount of Rs.1639,99,77,693/-.

5. Since the AO computed the interest on the principal amount only upto the date of intimation issued under section 143(1) of the Act, i.e., upto 25.11.2021, the assessee filed the appeal before the learned CIT(A). In its appeal, the assessee also prayed that the assessee be granted the refund of the deficit principal amount of Rs.81,99,98,897/- along with further interest under section 244A from October 2022 onwards till the actual date of granting/crediting the refund. The learned CIT(A), vide impugned order, partly allowed the appeal filed by the assessee and directed the AO to compute the interest on refund upto September 2022, i.e., the date on which the refund was granted. However, the learned CIT(A) dismissed the plea of the assessee regarding the method of calculation of refund due, i.e., first by adjustment of interest due under section 244A of the Act and thereafter by adjustment of principal from the refund already granted, so

that the remaining/deficit amount of refund due is treated as principal due on which interest under section 244A is calculated till the date of grant of such refund. Being aggrieved, the assessee is in appeal before us.

6. During the hearing, the learned Authorized Representative ("*learned AR*") by placing reliance upon various judicial pronouncements submitted that in case part refund is issued to the assessee then the same should be firstly adjusted against the interest component and the balance, if any, towards the tax component and the principal amount remaining due thereafter be treated as principal due on which interest under section 244A of the Act be computed till the date of grant of further refund.

7. On the other hand, the learned Departmental Representative ("*learned DR*") submitted that there is no express provision in section 244A of the Act for adjustment of partly issued refunds and therefore, the refund should be firstly adjusted against the outstanding principal amount of the taxes due to be refunded and then against the interest component receivable by the assessee. The learned DR further submitted that the method of computation of refund as pleaded by the assessee will result in awarding interest on interest, which is contrary to the decision of the Hon'ble Supreme Court in the case of CIT vs. Gujarat Fluoro Chemical, reported in (2014) 358 ITR 291 (SC).

8. We have considered the submissions of both sides and perused the material available on record. From a careful perusal of the decision of the Hon'ble Supreme Court in Gujarat Fluoro Chemicals (*supra*), we find that the

Hon'ble Court was considering the correctness or otherwise of the decision of the Hon'ble Supreme Court in Sandvick Asia Ltd. vs. CIT, reported in (2006) 280 ITR 643 (SC). The Hon'ble Supreme Court, while clarifying, held that under section 244A of the Act, interest provided for under the statute can only be claimed by the assessee and no other interest on such statutory interest is payable. In the present case, as noted above the issue pertains to correct computation of refund due to the assessee. As per the Revenue, while computing the refund and interest thereon under section 244A of the Act, the refund already granted to the assessee should first be adjusted against the outstanding principal amount of taxes due to be refunded and then the balance amount should be adjusted against the interest component receivable by the assessee. However, as per the assessee, the refund already granted to the assessee should first be adjusted against the interest component and the balance amount, if any, should be adjusted against the principal amount of the taxes due to be refunded to the assessee.

9. In the facts of the present case, a refund amounting to Rs.1803,99,75,450/- was determined and issued to the assessee on 27.09.2022 which consists of interest under section 244A of the Act amounting to Rs.163,99,97,760/- and the principal amount of tax of Rs.1639,99,77,693/-. Since, the interest was computed only till the date of intimation issued under section 143(1) and not till the date of grant of refund in September 2022, the learned CIT(A), vide impugned order, directed the AO to issue the interest on refund due till the date of grant of refund as per the provisions of section 244A of the Act. As per the assessee,

it is entitled to interest of Rs.245,99,96,654/- under section 244A till September 2022, i.e., till the date of granting of refund. Thus, as per the assessee; firstly, the aforesaid interest component of Rs.245,99,96,654/- be adjusted against the refund of Rs.1803,99,75,540/- and thereafter, the balance be adjusted against the principal/tax component, which comes to Rs.1557,99,78,796/-. Therefore, as per the assessee by adopting the aforesaid computation methodology, the assessee would be left with the deficit principal/tax component of refund to the tune of Rs.81,99,98,897/- on which further interest under section 244A would be eligible from October 2022 onwards till the date of actual granting/crediting of refund to the assessee. The computation mechanism as pleaded by the assessee is summarized as under: -

<i>Particulars</i>	<i>Principal Component</i>	<i>Interest Component</i>	<i>Total</i>
<i>Refund Due as on September 2022 (As shown above)</i>	<i>1639,99,77,693</i>	<i>245,99,96,654</i>	<i>1885,99,74,347</i>
<i>Less : Refund Issued on 27.09.2022</i>	<i>(1557,99,78,796)</i>	<i>(245,99,96,654)</i>	<i>(1803,99,75,450)</i>
<i>Deficit / Balance Principal after issue of refund</i>	<i>81,99,98,897</i>		<i>81,99,98,897</i>

10. We find that the Co-ordinate Bench of the Tribunal in Union Bank of India vs. ACIT, reported in (2017) 162 ITD 142 (Mum.), after considering the decision of the Hon'ble Supreme Court in Gujarat Fluoro Chemicals (supra) held that the amount of refund granted earlier should be adjusted first against the interest component of earlier refund and thereafter balance should be adjusted against the principal component of tax. The relevant

findings of the Co-ordinate Bench, in the afore-noted decision, are reproduced as follows: -

"3.8 Thus, from the perusal of the above, it is clear that where the amount of tax demanded is paid by the assessee then it shall first be adjusted towards interest payable and balance if any whatever tax payable. Now, if we go through section 244A, we find that no specific provision has been brought on the statute with respect to adjustment of refund issued earlier for computing the amount of interest payable by the revenue to the assessee on the amount of refund due to the assessee. Thus, the law is silent on this issue. Under these circumstances, fairness and justice demands that same principle should be applied while granting the refund as has been applied while collecting amount of tax. The revenue is not expected to follow double standards while dealing with the tax payers. The fundamental principle of fiscal legislation in any civilized society should be that the state should treat its citizens (i.e. tax payers in this case) with the same respect, honesty and fairness as it expects from its citizens. It is further noted by us that Hon'ble Delhi High Court has already decided this issue in clear words which has been followed by the Tribunal in assessee's own case in the earlier years. It is further noted by us that assessee is not asking for payment for interest on interest. It is simply requesting for proper method of adjustment of refund and for following the same method which was followed by the department while making collection of taxes. Under these circumstances, we find that judgment of Hon'ble Supreme Court in the case of Gujarat Fluoro Chemicals (supra) is not applicable on the facts of the case before us and thus Ld. CIT (A) committed an error in not following the decisions of the Tribunal of earlier years in assessee's own case as well as judgment of Hon'ble High Court in the case of India Trade Promotion Organisation (supra)."

11. We further find that following the aforesaid decision in Union Bank Of India (supra), another Co-ordinate Bench of the Tribunal in Grasim Industries Ltd. vs. CIT reported in (2021) 23 taxmann.com 31 (Mum.) rendered similar findings and held that the refund granted be first adjusted against the interest component and consequently shortfall of refund be regarded as shortfall of tax and that shortfall should then be considered for the purposes of computing further interest payable to the assessee under section 244A of the Act till the date of grant of such refund. From a careful perusal of the afore-noted decision, we further find that the Co-ordinate Bench rejected the argument of the Revenue that the afore-stated methodology will result

in awarding interest on interest. The relevant findings of the Co-ordinate Bench, in afore-noted decision, are reproduced as follows: -

"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 v. Asstt. CIT [2016] 72 taxmann.com 348/162 ITD 142 (Mum.).

b. Decision in the case of Bank of Baroda v. Dy. CIT [IT Appeal No. 646 (Mum.) of 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. 6-9-2013. We further hold that the refund granted on 6-9-2013 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."

12. We find that while dismissing the Revenue's appeal, similar findings were rendered by the Co-ordinate Bench of the Tribunal in DCIT vs. MSMSatellite (Singapore) Pte Ltd., in ITA No.380/Mum/2021vide its order dated 09.06.2022.

13. Thus, we find that the issue under consideration before us is already settled in favour of the assessee by the aforesaid decisions. Therefore, respectfully following the aforesaid judicial precedents, we allow the grounds raised by the assessee and direct the AO to first adjust the refund granted against the interest component and then adjust the balance amount against the principal/tax component and any shortfall thereafter shall be considered for computation of interest payable to the assessee under section 244A of the Act till the date of grant or crediting of refund. Accordingly, the impugned order on this issue is set aside and grounds raised by the assessee are allowed.

14. In the result, the appeal by the assessee is allowed.

Order pronounced in the open Court on 08/11/2024

Sd/-
NARENDRA KUMAR BILLAIYA
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 08/11/2024

Prabhat

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai