



**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"I" BENCH, MUMBAI**  
**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND**  
**SHRI DR. A.L. SAINI, ACCOUNTANT MEMBER**

ITA no.375/Mum./2017  
(Assessment Year : 2012-13)

Asstt. Commissioner of Income Tax  
Circle-2(2)(2), Mumbai

..... Appellant

v/s

Mahindra Automobile Distributor P. Ltd.  
Gateway Building, Apollo Bunder  
Mumbai 400 001 PAN – AAACM4047Q

..... Respondent

Revenue by : Shri Virender Singh  
Assessee by : Shri Prasad Bapat

Date of Hearing – 21.06.2018

Date of Order – 27.06.2017

**ORDER**

**PER SAKTIJIT DEY, J.M.**

Aforesaid appeal by the Revenue is against the order dated 10<sup>th</sup> October 2016, passed by the learned Commissioner (Appeals)-5, Mumbai, for the assessment year 2012-13.

2. The dispute in the present appeal is confined to the decision of the learned Commissioner (Appeals) in deleting the interest charged of ₹ 1,95,800, under section 234B and 234C of the Income Tax Act, 1961 (for short "*the Act*").

3. Brief facts are, for the impugned assessment year the assessee filed its return of income on 28<sup>th</sup> September 2012, declaring total income of ₹ 21,41,71,730. Initially, the return of income was processed under section 143(1) of the Act accepting the returned income. Subsequently, the return of income filed by the assessee was selected for scrutiny and the Assessing Officer completed the assessment under section 143(3) of the Act on 2<sup>nd</sup> March 2015, accepting the income returned by the assessee. However, while completing the assessment, the Assessing Officer charged interest under section 234B and 234C of the Act alleging default in payment of advance tax. Assessee challenged the levy of interest before the first appellate authority.

4. The learned Commissioner (Appeals) noticed that the delay / default in payment of advance tax was due to the demerger of the company on 25<sup>th</sup> March 2012, hence, the assessee was not aware of the earlier installment payment of advance tax. Therefore, following the decision of the Tribunal, Mumbai Bench, in case of Ultratech Cement Ltd. v/s DCIT, learned Commissioner (Appeals) deleted the interest charged under section 234B and 234C of the Act.

5. We have heard the learned Counsels appearing for rival parties and perused materials on record. The learned Authorised Representative submitted that while processing the return of income under section 143(1) of the Act for the impugned assessment year, the Assessing Officer had charged interest under section 234B and 234C of the Act. While deciding assessee's appeal against the said levy of interest learned Commissioner (Appeals) deleted the interest charged on identical reasoning. The learned Authorised Representative submitted, while deciding Revenue's appeal against the aforesaid decision of the learned Commissioner (Appeals), the Tribunal vide order passed in ITA No.5625/Mum/2015, dated 23.01.2018 has accepted the reasoning of the learned Commissioner (Appeals) and accordingly upheld his decision to delete the interest charged under section 234B and 234C of the Act. Thus, he submitted, the issue is covered by the decision of the Tribunal for the very same assessment year.

6. The learned Departmental Representative agreed that the issue is covered by the decision of the Tribunal.

7. Having considered rival submissions, it is noticed that while processing the return of income filed by the assessee for the impugned assessment year, the Assessing Officer in the intimation issued under

section 143(1) of the Act had charged interest under section 234B and 234C of the Act. Against such intimation issued under section 143(1) of the Act assessee preferred appeal before the learned Commissioner (Appeals) and the learned Commissioner (Appeals) taking note of the fact that due to demerger assessee was unaware of the status of advance tax paid prior to demerger, held that no interest under section 234B and 234C of the Act can be charged. While deciding Revenue's appeal against aforesaid order of the learned Commissioner (Appeals) the Tribunal in the order referred to above upheld deletion of interest levied under section 234B and 234C of the Act. Notably, while completing assessment under section 143(3) of the Act for the very same assessment year, the Assessing Officer again levied interest under section 234B and 234C of the Act. However, the learned Commissioner (Appeals) on identical reasoning deleted the levy of interest. Thus, as could be seen from the facts on record, the reasoning on which the Tribunal upheld the decision of the learned Commissioner (Appeals) in deleting the interest charged under section 234B and 234C of the Act while processing the return of income under section 143(1) of the Act squarely applies to the present proceedings also. That being the case, we do not find any reason to interfere with the order of the learned Commissioner (Appeals) on this issue. Ground raised is dismissed.

8. In the result, Revenue's appeal is dismissed.

Order pronounced in the open Court on 27.06.2018

**Sd/-**  
**DR. A.L. SAINI**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SAKTIJIT DEY**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 27.06.2018**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

(Sr. Private Secretary)  
ITAT, Mumbai