

<b>IN THE INCOME TAX APPELLATE TRIBUNAL</b>
<b>COCHIN BENCH, COCHIN</b>
<b>BEFORE S/SHRI CHANDRA POOJARI, AM &amp; GEORGE GEORGE K., JM</b>

I.T.A. No.635 /Coch/2017
Assessment Year : 2007-08

The Assistant Commissioner of Income-tax, Circle-1(1), Thrissur.	<b>Vs.</b>	The Catholic Syrian Bank Ltd., St. Mary's College Road, Thrissur-680020. [PAN: AABCT 0024D]
<b>(Revenue-Appellant)</b>		<b>(Assessee-Respondent)</b>

<b>Revenue by</b>	Smt. A.S. Bindhu, Sr. DR
<b>Assessee by</b>	Shri C. Naresh, CA

<b>Date of hearing</b>	02/08/2018
<b>Date of pronouncement</b>	2/08/2018

## **ORDER**

Per CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is directed against the order of the CIT(A), Thrissur dated 17/10/2017 and pertains to the assessment year 2007-08.

2. The crux of the ground in this appeal is that the CIT(A) has erred in granting interest u/s. 244A of the Act on refund arising out of self assessment tax paid by placing reliance on the order of the ITAT in ITA No. 880/Coch/2006 dated 28/07/2006.

3. We have heard the rival submissions and perused the record. We find that a similar issue came up for the consideration of the Tribunal in assessee's own case in ITA Nos. 572 & 573/Coch/2014 dated 31/05/2018 wherein it was held as under:

*"3. After hearing both the parties, we are of the opinion that a similar issue was considered by the Tribunal in ITA Nos. 320-325/Coch/2014 for the assessment years 1998-99 to 2003-04 vide its order dated 21/11/2014 wherein by allowing the appeal of the assessee, it was held as under:*

*"6. The first ground in I.T.A. No. 324/Coch/2014 is with regard to granting of interest under section 244A of the Act on self assessment tax paid under section 140A of the Act. This issue came up for consideration before this Tribunal in I.T.A. No. 880/Coch/2006 in assessee's own case vide order dated 28-07-2006 wherein the claim of the assessee was allowed by observing as under:*

*"5. We have heard the Id. Authorised Representative Shri Jose Pottokaran for the assessee and the Ld. Sr. Departmental Representative Shri V. Sreekumar for the revenue. In this case, the facts are not disputed that the assessee is eligible for refund of Rs.4,99,23,510/-. It appears that the CIT(A) was of the opinion that as the refund is arising to the assessee bank due to excess payment of the self assessment tax and hence, the Assessing officer did not grant interest u/s. 244A of the Act to the assessee.*

*6. An identical issue has come up for consideration of the ITAT, Mumbai Bench 'B' in the case of Addl. CIT vs. Grindwell Norton Ltd. (2006) 100 ITD 245 (Mum). In that case also, the return of income filed by the assessee was processed u/s. 143(1)(a) of the Act and no interest u/s. 244A was allowed by the Assessing officer. The refund was arising due to the excess payment of self-assessment tax. After examining the legislative history of section 244A which was brought on the statute book from the assessment year 1989-90 in place of sections 214, 243 and 244, it was held that the assessee is entitled to interest u/s. 244A of the Act on the excess self-assessment tax paid u/s. 140A of the Act and observed as under:*

*"In sub-section (1) to section 244A where refund of any amount becomes due to the assessee, it is stipulated that in addition to the refund the assessee shall be entitled to receive interest on the said refund under clause (a) to sub-section (1) of section 244A of the Act, interest shall be payable on the refund of tax deducted at source or advance tax paid by the assessee and in clause (b) to sub-section (1) to section 244A, the interest shall be paid on refund of tax other than advance tax or TDS. The Explanation appended to clause (b) to section 244A clarifies the date of payment of tax or penalty. The binding effect of the Circular on the revenue has been clarified by the Hon'ble Supreme Court in the case of Navnitlal C.Javeri (supra) and in the case of Paper Products Ltd. (supra). The limited question for adjudication is whether the Explanation appended to clause (b) to section 244A(1) limits the allowability of interest on the payments made other than TDS and advance tax. Their Lordships of the Hon'ble Supreme Court in the case of S.Sundaram Pillai (supra) have considered the impact of the elaborately dealt with the matter holding that the "the word ambiguity which may have arisen in the statutory provisions of the Act and have itself shows it is merely meant to explain or clarify certain provisions". In the present case the assessee had claimed the interest on excess payment of self-assessment tax u/s. 140A of the Act. In accordance with the provisions of clause (b) to section 244A(1) of the Act, interest is payable on such payments of tax. We do not agree with the contention of the Assessing officer with regard to applicability of provisions of Explanation to clause (b) to section 244A(1) of the Act. The provisions of the statute are to be given its full effect and in the instant case once the return has been processed u/s. 143(1)(a) and refund is determined as payable to the assessee. The provisions of the Act clearly provide that in addition the interest is payable on such sums which are held and utilized by the government over and above the tax dues of the assessee under the provisions of the Income-tax Act. Accordingly, in addition to the refund of the money the assessee was entitled to receive interest on the said excess amount paid by him. We find support from the decision of the Mumbai Bench in the case of the assessee itself for assessment year 1997-98 and also in the case of Novartis India Ltd. (both cited supra) which in turn relied on the decision of the*

*Calcutta Bench in the case of Hooghly Mills Co. Ltd. vs. Dy. CIT (2000) 74 ITD 309 wherein it has been held as under:*

*"The matter might be looked into from another angle also. The interest was required to be paid by the government to the assessee for holding utilizing the excess money paid by the assessee over and above its tax dues. In the instant case, the assessee had paid much more self-assessment tax than was required under the relevant provisions of law. Although, therefore, the payment had been claimed by the assessee and also considered by the departmental authorities, to be self-assessment tax, actually, the same was not exactly of the nature of self-assessment tax. The amount which the assessee was required to pay in addition to the tax deducted at source to meet up the tax liability arising out of the return should alone be considered as self-assessment tax. The balance amount of tax having no immediate connection with the return of income was enjoyed by the Government for a number of months. It was, therefore, fair and equitable on the part of the Government to pay interest on the same to the assessee when this excess amount was refunded to the assessee."*

*7. Respectfully following the principles laid down in the case of Grindwell Norton Ltd. (supra), we hold that the assessee is eligible for interest u/s. 244A of the Act on the amount of Rs.4,99,23,510/-. We, therefore, direct the Assessing officer to grant interest to the assessee u/s. 244A on the said amount as per the provisions of law. We, therefore, set aside the order of the CIT(Appeals).*

*8. In the result, the assessee's appeal stands allowed."*

*7. In view of the above order of the Tribunal, we allow the ground taken by the assessee on similar lines. "*

*3. In view of the above order, since the issue is common to that one considered by the Tribunal on an earlier occasion cited supra, we are inclined to dismiss both the appeals of the Revenue."*

In view of the above binding precedent, we dismiss the ground taken by the Revenue.

In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open Court on this 2<sup>nd</sup> August, 2018.

sd/-  
(GEORGE GEORGE K.)  
JUDICIAL MEMBER

sd/-  
(CHANDRA POOJARI)  
ACCOUNTANT MEMBER

Place:

Dated: 2<sup>nd</sup> August, 2018

GJ

Copy to:

1. The Catholic Syrian Bank Ltd., St. Mary's College Road, Thrissur-680020.
2. The Assistant Commissioner of Income-tax, Circle-1(1), Thrissur.
3. The Commissioner of Income-tax(Appeals), Thrissur.
4. The Pr. Commissioner of Income-tax, Thrissur.
5. D.R., I.T.A.T., Cochin Bench, Cochin.
6. Guard File.

By Order

(ASSISTANT REGISTRAR)  
I.T.A.T., Cochin