

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI M. BALAGANESH, HON'BLE ACCOUNTANT MEMBER**

**ITA NOs. 1044 & 1045/MUM/2018
(A.Ys: 2012-13 & 2013-14)**

ITA NO. 6970/MUM/2017 (A.Y: 2014-15)

IDBI Federal Life Insurance Co. Ltd., 23 rd Floor, A-Wing Marathon Futurex N.M. Joshi Marg, Lower Parel (E) Mumbai – 400 013 PAN: AABCI6227M	v.	Dy. Commissioner of Income-Tax Circle - 6(3)(1) 5 th Floor, Room No. 506 Aayakar Bhavan, M.K. Road Mumbai – 400 020
(Appellant)		(Respondent)

Assessee by	:	Ms. Aarti Visanji
Department by	:	Shri Kumar Padmapani Bora
Date of Hearing	:	06.02.2020
Date of Pronouncement	:	31.07.2020

ORDER

PER C.N. PRASAD (JM)

1. These appeals were recalled by the Tribunal by order dated 15.11.2019 in M.A. No. 521 to 523/Mum/2019 arising out of ITA.Nos. 1044, 1045/Mum/2018 and ITA.No. 6970/Mum/2017 for the A.Ys. 2012-13 to 2014-15, as the Tribunal while disposing off the appeals on

24.07.2019 did not adjudicate the following grounds raised by the assessee in respect of levy of interest u/s. 234B of the Act.

"2012-13

Ground No.5-Interest under section 234B of the Act

On the facts and circumstances of the case and in law, the CIT(A) erred in not holding that provision of section 234B of the Act are not applicable in the Appellant's case.

2013-14

Ground No.5

On the facts and circumstances of the case and in law, the CIT(A) erred in not holding that provisions of section 234B of the Act are not applicable in the Appellant's case.

2014-15

Ground No.6

On the facts and circumstances of the case and in law, the CIT(A) erred in not holding that provisions of section 234B of the act are not applicable in the Appellant's case."

2. Therefore, in these appeals we are confined only to dispose of the above grounds of appeal relating to charging of interest u/s. 234B of the Act.

3. At the outset, Learned Counsel for the assessee submitted that the assessee since incurred huge losses in earlier years thus there is no liability to pay advance tax and therefore it is not liable to pay interest u/s. 234B of the Act. Ld. Counsel further submitted that identical issue has been decided in assessee's own case for the A.Ys. 2009-10 and

2010-11 in ITA.No. 6282 & 6281/Mum/2012 dated 09.08.2017. Ld. Counsel for the assessee also submitted that identical issue has been decided in favour of assessee in the following cases. Copies of the orders were placed on record: -

- a. *DCIT v. IDBI Federal Life Insurance Company limited in ITA.No. 5567 & 6306/Mum/2012 and ITA.No. 5378/Mum/2014 dated 09.08.2017.*
- b. *HDFC Standard Life Insurance Company Limited v. DCIT in ITA.No. 2203 to 2207 and 5591 of 2012 4929 and 4960/Mum/2011 dated 20.09.2013.*
- c. *DCIT v. HDFC Standard Life Insurance Company Limited in ITA.No. 3000 to 3004 and 5506 /Mum/2012 and 5493, 5494/Mum/2011.*
- d. *HDFC Standard Life Insurance Company Limited v. DCIT in ITA.No. 34 & 35/Mum/2017*
- e. *Prime Securities Ltd., v. Asst. CIT (Inv.) [33 ITR 464 (BOM)]*

4. Ld. DR vehemently supported the orders of the authorities below.

5. We have heard the rival submissions, perused the orders of the authorities below and the order of the Tribunal. Identical issue came up before the Tribunal for the A.Y. 2009-10 in assessee's own case in ITA.No.6282/Mum/2012 dated 09.08.2017 wherein the Tribunal decided the issue in favour of the assessee observing as under: -

"8. In its appeal the assessee has raised 27 Grounds of appeal. During the course of hearing before us the AR stated that all the grounds were not effective Grounds of appeal, that some of them were arguments only in support of the grounds. Therefore, we are rearranging the issues raised by the assessee in a tabular form. We

find that most of them are covered by the orders of the Tribunal delivered in the cases of ICICI Prudential Insurance or HDFC Life Insurance case. Following are the issues and the paragraphs of the orders that cover the various grounds, raised by the assessee:

<u>GOA</u>	<u>Issue</u>	<u>Covered by HDFC</u>	<u>Covered by ICICI Order</u>
2.	<i>Taxation of profits from life insurance business</i>	<i>Para 2.5.1; Pg-10-11</i>	<i>Para 12 to 14; Pg-6-8</i>
3.	<i>Income in Shareholders account taxable as income from other sources</i>	<i>Para 2.5.2, pg-11 -12; Para 2.5.6, Pg. 13</i>	<i>Para 12 to 14, Pg.-6 to 8</i>
5.	<i>Disallowance u/s. 14A</i>	<i>Para 3. 3, Pg- 16- 18</i>	<i>Para 1-9; Pg-2 to 6</i>
9.	<i>Disallowance of depreciation on assets costing less than Rs. 20,000/-</i>	<i>...</i>	<i>Para 12 to 14 , ps-6 to 8</i>
11.	<i>Applicable rate of tax</i>	<i>Para 2.5. 8. a, Pg-14-15</i>	<i>Para 12 to 14, Pg-6 to 8</i>
12.	<i>Interest u/s. 234B of the Act</i>	<i>Para 5. 1,5.2, Pg-18-19</i>	<i>.....</i>
14.	<i>Addition on account of incremental negative reserves</i>	<i>Para 6 to 6.3, Pg-20-21</i>	<i>Para 12 to 14, Pg-6 to 8</i>
21.	<i>Add back of pension losses</i>	<i>Para 1 1.3, pg-23.</i>	

8.1. Ground no.1 and 27 are generic in nature, hence, are not being adjudicated.

8.2. Before us, the AR stated the if ground 2 was decided in favour of the assessee, it would result in adjudication of grounds no.3,4,14,15 and 19 to 25. Considering his submissions, we decide ground no.2 in favour of the assessee and allow the grounds no.3,4,14,15,19-25 for statistical purposes.

8.3. As the issue of disallowance u/s. 14A(GOA-5) stands allowed in the cases of ICICC and HDFC, so, we allow ground no.5 in favour of the assessee. GOA 6-8, are allowed for statistical purposes, as same advance certain arguments in support of ground no.5.

8.4. Following the order of ICICIC(supra), we decide issue of disallowance of depreciation on assets costing less than Rs.20,000/- (GOA-9)in favour of the assessee.

8.5. Grounds no. 10,11 and 12 are covered by the orders of the ICICI or HDFC, therefore, all the three grounds stand allowed.

8.6. Next effective ground (GOA 13 and 18) deals with interest U/S.234D of the Act. Before us, the AR stated that

8.7. Ground no.26 is about initiation of penalty proceeding. As the issue is premature, so, we dismiss it. All the ground of appeal raised by the assessee are identical to the grounds of earlier AY. So, following our order for the AY.2009-10, we allow the appeal for the appeal filed by the assessee for the year under consideration.

6. Respectfully following the said order of the Tribunal, we allow the grounds raised by the assessee.

7. In the result, appeals of the assessee are allowed.

8. Before parting, we noticed that this appeal was heard on 06.02.2020 and the pronouncement is delayed due to lockdown in view of COVID-19 pandemic. The pronouncement is as per Rule 34(5) of Income Tax Appellate Tribunal Rules, 1963 and Hon'ble Bombay High Court decision vide orders dated 15.04.2020 and 15.06.2020 extending the time bound periods specified by Hon'ble High Court by removing the period under lockdown. This aspect was also dealt with in detail by the Mumbai Bench of the Tribunal in case of DCIT v. JSW Steel Vide order dated 15.05.2020.

Order pronounced on 31.07.2020 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER
Mumbai / Dated 31/07/2020
Giridhar, Sr.PS

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

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, Mum