

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'E': NEW DELHI)
(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 469/Del/2014
(Assessment Year: 1995-96)**

Maruti Suzuki India Ltd., Plot No. 1, Nelson Mandela Road, Vasant Kunj, New Delhi.	Vs.	JCIT (OSD), Circle- 6(1), New Delhi.
APPELLANT		RESPONDENT
PAN No: AAACM0829Q		

**ITA No:- 470/Del/2014
(Assessment Year: 1996-97)**

Maruti Suzuki India Ltd., Plot No. 1, Nelson Mandela Road, Vasant Kunj, New Delhi.	Vs.	JCIT (OSD), Circle- 6(1), New Delhi.
APPELLANT		RESPONDENT
PAN No: AAACM0829Q		

**ITA No:- 471/Del/2014
(Assessment Year: 1997-98)**

Maruti Suzuki India Ltd., Plot No. 1, Nelson Mandela Road, Vasant Kunj, New Delhi.	Vs.	JCIT (OSD), Circle- 6(1), New Delhi.
APPELLANT		RESPONDENT
PAN No: AAACM0829Q		

Assessee By : Shri Ajay Vohtra, Sr. Adv.
Shri Aditya Vohra, Adv.
Ms. Somiya Jain, CA
Revenue By : Ms. Pramita M. Biswas, CIT(DR)

ITA No:- 600/Del/2014
(Assessment Year: 1995-96)

DCIT, Circle- 6(1), New Delhi.	Vs.	Maruti Suzuki India Ltd., Plot No. 1, Nelson Mandela Road, Vasant Kunj, New Delhi.
APPELLANT		RESPONDENT
PAN No: AAACM0829Q		

ITA No:- 601/Del/2014
(Assessment Year: 1996-97)

DCIT, Circle- 6(1), New Delhi.	Vs.	Maruti Suzuki India Ltd., Plot No. 1, Nelson Mandela Road, Vasant Kunj, New Delhi.
APPELLANT		RESPONDENT
PAN No: AAACM0829Q		

ITA No:- 602/Del/2014
(Assessment Year: 1997-98)

DCIT, Circle- 6(1), New Delhi.	Vs.	Maruti Suzuki India Ltd., Plot No. 1, Nelson Mandela Road, Vasant Kunj, New Delhi.
APPELLANT		RESPONDENT
PAN No: AAACM0829Q		

Revenue By : Ms. Paramita M. Biswas, CIT(DR)
Assessee By : Shri Ajay Vohra, Sr. Adv.
Shri Aditya Vohra, Adv.
Ms. Somya Jain, CA

Per Bench

The aforementioned six appeals in the case of the Assessee and Revenue are taken up together for the sake of convenience and brevity; and are hereby disposed off through this Consolidated Order. Grounds taken in these six appeals of Assessee as well as Revenue are as under:

ITA No.- 469/Del/2014

"1.0 That the CIT(Appeals) erred on facts and in law in not rectifying the errors committed by the Assessing Officer in computing the interest under Section 244A of the Income Tax Act, 1961.

The appellant prays leave to add, amend, alter, delete or forego any of the grounds either before or during the course of hearing."

ITA No.- 470/Del/2014

"1.0 That the CIT(Appeals) erred on facts and in law in not rectifying the errors committed by the Assessing Officer in computing the interest under Section 244A of the Income Tax Act, 1961.

The appellant prays leave to add, amend, alter, delete or forego any of the grounds either before or during the course of hearing."

ITA No.- 471/Del/2014

"1.0 That the CIT (Appeals) has erred on facts and in law in rejecting the appeal filed by the Appellant without giving any finding on the legal grounds raised by the Appellant.

2.0 That the CIT (Appeals) erred on facts and in law in confirming the action of the assessing officer in not granting interest under section 244A of the Income tax Act, 1961 ('the Act') on the amount of refund, being the excess of tax liability on the assessed income over the taxes paid under section 143(1) of the Act.

3.0 That the CIT (Appeals) erred on facts and in law in concluding that for giving effect to the provisions of section 244A(3), the limitation as per the proviso to 244A(1)(a) of the Act would apply.

That appellant prays leave to add, amend, alter, delete or forego any of the grounds either before or during the course of hearing."

ITA No.- 600/Del/2014

"1. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in directing the A.O. to allow interest u/s 244A to the assessee for the month in which payments /adjustments were made on the last day of the month?

2. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in holding that few hours of the day constitute part of the month whereas for constituting part of the month at least one day should have been completed ?

3. That the order of the Ld. CIT(A) is erroneous and is not tenable on facts and in law.

4. That the grounds of appeal are without prejudice to each other.

5. That the appellant craves leave to add, alter, amend or forgo any ground(s) of appeal either before or at the time of hearing of the appeal."

ITA No. – 601/Del/2014

"1. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in directing the A.O. to allow interest u/s 244A to the assessee for the month in which payments /adjustments were made on the last day of the month?

2. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in holding that few hours of the day constitute part of the month whereas for constituting part of the month at least one day should have been completed ?

3. That the order of the Ld. CIT(A) is erroneous and is not tenable on facts and in law.

4. *That the grounds of appeal are without prejudice to each other.*
5. *That the appellant craves leave to add, alter, amend or forgo any ground(s) of appeal either before or at the time of hearing of the appeal."*

ITA No. – 602/Del/2014

1. *Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in directing the A.O. to give refund of Rs. 3,20,87,719/- to the assessee without either verifying the records of allowing the A.O. an opportunity to explain?*
2. *Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in directing the A.O. to give refund of Rs. 3,20,87,719/- to the assessee without appreciating the fact that refund of Rs. 3,20,87,719/- has already been granted to the assessee?*
3. *Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in directing the A.O. to allow interest u/s 244A to the assessee for the month in which payments /adjustments were made on the last day of the month?*
4. *Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in holding that few hours of the day constitute part of the month whereas for constituting part of the month at least one day should have been completed?*
5. *That the order of the Ld. CIT(A) is erroneous and is not tenable on facts and in law.*
6. *That the grounds of appeal are without prejudice to each other.*
7. *That the appellant craves to add, amend or forgo any ground(s) of appeal either before or at the time of hearing of the appeal."*

(B) In all these six appeals, three appeals filed by Revenue and three appeals filed by the Assessee; the disputes pertain to the sole issue of interest under Section 244A of Income Tax Act, 1961 ("I.T. Act", for short) payable by Revenue to the assessee. Vide impugned appellate order each dated 29.11.2013, of the Ld. CIT(A) for Assessment Years 1995-96, 1996-97, and 1997-98 respectively, the Ld. CIT(A) expressed the view that interest should be given to the assessee under Section 244A of I.T. Act for the full

month even if tax is paid by the assessee on the last day of the month. Vide ITA Nos. 600/Del/2014, 601/Del/2014 and 602/Del/2014 for Assessment Years 1995-96, 1996-97, and 1997-98 respectively filed by Revenue against the aforesaid impugned appellate orders of the Ld. CIT(A); this direction of the Ld. CIT(A) has been disputed on the ground that payments of tax / adjustments were made on the last day of the month. Revenue is of the view that for constituting part of the month, at least one day should have been completed and a few hours of the day do not constitute part of the month. At the time of hearing before us, the representatives of both sides; namely Ms. Paramita M. Biswas, Commissioner of Income Tax (Departmental Representative) from Revenue's side and Shri Ajay Vohra, Sr. Advocate, Shri Aditya Vohra, Advocate and Ms. Somya Jain, C.A. (Authorized Representative) for the assessee, were in agreement that the issue in dispute is covered by the order of Co-ordinate Bench of Income Tax Appellate Tribunal, Delhi ("ITAT", for short) in assessee's own case vide order dated 31/08/2020 in ITA No.- 2641/Del/2013, in the case of DCIT vs. Maruti Suzuki India Ltd. Both sides were in agreement at the time of hearing before us, that in identical facts and circumstances, the issue has already been decided in assessee's own case, in favour of the assessee, in the aforesaid order dated 31/08/2020 of the Co-ordinate Bench of ITAT, Delhi. Our attention was also drawn to the relevant portion of the aforesaid order dated 31/08/2020 of Co-ordinate Bench of ITAT, Delhi in ITA No. 2641/Del/2013 which is reproduced as under:

"65. The AO did not allow interest to the assessee on the amounts of tax paid on 31.01.2003 and 28.02.2003 on the grounds that a few hours cannot be construed as part of a month. The AO held that in order to qualify as part of the month at least one entire day should have been completed.

66. The Id. CIT(A) referred to the analogy provided u/s 234A, Sec. 234B & 234C wherein similar phrase has been used. Based on the phraseology, the Id. CIT(A) held that while interest is charged from the assessee when the date changes to the next day, similarly, the assessee is also eligible for receipt of interest when the date changes. Hence, it was held that the assessee who pays tax on 31.01.2003 at 23.59 hrs. and eligible to refund of tax, would be entitled to interest for the month of January.

67. Having gone through the specific provisions of the Act, pertaining to computation of interest u/s 244A(1)(a) and Sec. 244A(1)(b) as well as Sec. 234A, Sec. 234B & Sec. 234C, we hereby hold that the rule of collection of interest on the taxes due from the taxpayer would be applicable in the comparable way while paying interest to taxpayer on the refund.

68. Hence, we hold that the assessee is eligible for interest on the,

(i) Amount of Rs. 30,00,00,000/- paid on 31.01.2003 is eligible for interest for the month of January.

(ii) Amount of Rs. 25,00,00,000/- paid on 28.02.2003 is eligible for interest for the month of February.”

(B.1) Neither side has brought any materials for distinguishing the facts and circumstances of the case for Assessment Years 1995-96, 1996-97, and 1997-98 (to which these appeals pertain) from facts and circumstances of Assessment Year 1999-2000 (to which the aforesaid order dated 31/08/2020 pertains). Neither side has brought any materials for our consideration to persuade us to take a different view in these appeals before us from the view taken by ITAT in aforesaid order dated 31/08/2020. Neither side has brought any materials for our consideration to persuade us to interfere with the aforesaid impugned appellate orders dated 29.11.2013 of the Ld. CIT(A). In view of the foregoing; and on both sides are agreement that in identical facts and circumstances the issue in dispute has already been decided in favour of assessee in assessee's own case in aforesaid order dated 31/08/2020; the appeals of Revenue vide ITA Nos.- 600/Del/2014, 601/Del/2014 and 602/Del/2014 are dismissed.

We direct the Assessing Officer to allow interest under Section 244A of I.T. Act to the assessee to the entire month even when payments / adjustments were made on the last day of the month. Accordingly all the three appeals filed by Revenue are dismissed.

(C) In the appeals filed by the Assessee vide ITA Nos. 469/Del/2014, 470/Del/2014 and 471/Del/2014 for Assessment Years 1995-96, 1996-97 and 1997-98 respectively; the assessee has sought rectification of the errors committed by the Assessing Officer in computing interest under Section 244A of I.T. Act. At the time of hearing before us, representatives of both sides; namely Shri Ajay Vohra, Sr. Advocate, Shri Aditya Vohra, Advocate and Ms. Somya Jain, C.A. (Authorized Representative) for the assessee and Ms. Paramita M. Biswas, Commissioner of Income Tax (Departmental Representative) from Revenue's side were in agreement that the matter regarding computation of interest under Section 244A of I.T. Act should be restored to the Assessing Officer for fresh computation of interest under Section 244A of I.T. Act, allowable to the assessee. In view of the foregoing, and as both sides has agreed to this, we restore the matter raised in aforesaid appeals of the assessee, to the file of the Assessing Officer for fresh computation of interest allowable to the assessee under Section 244A of I.T. Act, in accordance with law; after providing reasonable opportunity to the assessee. The aforesaid three appeals filed by the assessee vide ITA Nos. 469/Del/2014, 470/Del/2014 and 471/Del/2014 are hereby disposed off with this direction. For statistical purposes, these three appeals of assessee are treated as partly allowed.

(D) In the result, appeals filed by Revenue are dismissed and appeals filed by assessee are partly allowed.

The order was already pronounced orally in the open court on 17/03/2021 in the presence of representatives of both sides. Now this order in writing is signed today on 18/03/21.

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 18/03/21
(Pooja)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	