

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH : BANGALORE**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND  
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

ITA No.493/Bang/2022
Assessment Year : 2019-20

M/s. GMR Airports Ltd., No.25/1, Skip House, Museum Road, Bengaluru – 560 025. <b>PAN : AAACM 7791H</b>	Vs.	The Assistant Director of Income Tax, CPC, Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Sunil Jain, CA
Revenue by	:	Smt. Priyadarshini Baseganni, Addl.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	21.07.2022
Date of Pronouncement	:	26.07.2022

**ORDER**

*Per Padmavathy S, Accountant Member*

This appeal is against the order of the CIT(A)-11, Bengaluru, dated 29.04.2022 for the Assessment Year 2019-20.

2. The only issue contended by the assessee through various grounds raised is the non-grant of interest under section 244A from the date of intimation u/s. 143(1) to the date of actual payment of the refund.

3. For the year under consideration, the assessee filed the return of income on 29.11.2019, declaring a loss of Rs.2,26,28,48,985/-. The return of income was processed by the ADIT, CPC, Bengaluru (AO) on 03.07.2020 assessing the loss of the assessee at Rs.2,26,28,48,985/-. Subsequently on a

rectification application filed by the assessee regarding wrong computation of interest u/s. 244A, the AO rejected the same.

4. On appeal before the CIT(Appeals), the assessee contended that in the intimation dated 3.7.2020 u/s. 143(1) the returned loss of Rs.226,28,48,985 was accepted under the normal provisions of the Act. A tax refund of Rs.15,48,40,248 (tax refund of Rs.14,33,70,600 + interest of Rs.1,14,69,648) was determined and the same was adjusted against the outstanding demand of AY 2017-18. The CPC granted interest on the tax refund u/s. 244A at Rs.1,14,69,648 as against the correct amount of Rs.1,29,03,354 resulting in a short grant of interest by RS.14,33,706. Subsequently the assessee raised a request before the AO for grant of interest u/s. 244A upto the date of grant/adjustment of tax refund. The AO in his rectification order u/s. 154 dated 21.12.2021 granted interest of Rs.1,14,69,648 till date of processing of return. It was further submitted that pursuant to the order of the Karnataka High Court pending appeal before the CIT(A), the AO passed an order dated 29.3.2022 issuing manual refund for AY 2019-20 which has been credited to the assessee in the month of April, 2022. Therefore, the assessee is entitled to interest /s. 244A of Rs.2,65,23,561 till the date of credit of refund to assessee's account.

5. The CIT(A) rejected the submissions of the assessee stating that the assessee was aggrieved by the order u/s. 143(1) dated 3.7.2020, but subsequent action of the AO in not adjustment the refund timely as the refund was adjusted against its demand for other years only on 22.9.2020. The CIT(A) observed the refund and any consequential interest after passing of rectification order dated 21.12.2021 u/s. 154 of the Act cannot be considered as an issue arising out of such order u/s. 154. Moreover, no such ground was

taken by the assessee in Form 35 or by way of additional ground. He therefore held this issue required no adjudication.

6. As regards grant of interest for the period of 2 months after processing of the refund till adjustment against other demand, the CIT(A) noted that the computation of interest u/s. 244A of the Act in the intimation u/s. 143(1) is correct which is upto the date of intimation. There was no mistake apparent from record in the intimation u/s. 143(1) requiring rectification. On this premise, the CIT(A) dismissed the appeal stating that the assessee should file appeal not against 143(1) but somewhere else. Aggrieved, the assessee is in appeal before the Tribunal.

7. Before us, the learned AR reiterated the submissions made before the lower authorities and prayed that the assessee was entitled to further interest of Rs.1,50,53,913 on the tax refund amount granted belatedly in accordance with the provisions of section 244A of the Act.

5. The learned DR supported the order of the CIT(A) submitting that the CIT(A) has rightly rejected the appeal which is filed against the order under section 143(1).

6. We heard the rival submissions and perused the materials on record. In the order under section 143(1) the interest is rightly calculated upto the date of the order. However, pursuant to the order of the Hon'ble Karnataka High Court the assessee has actually received the manual refund credited to its bank account on 29.3.2022. The CBDT vide circular No.7/2013 dated 15.07.2013 has issued instruction to the effect that when the delay in granting the refund is not attributable to the assessee but due to the fault of the Revenue then the interest under section 244A should be paid for the period of delay. Therefore, in the given case, there cannot be any dispute that the

assessee is entitled to the interest under section 244A upto the date on which refund is granted. However the CIT(A) has rightly dismissed the appeal stating that impugned interest is not arising out of order under section 143(1). Taking into consideration the submission of the Id. AR, in the interest of justice, we remit the issue back to the AO to consider the submission of the assessee. The AO is directed to take into account the instructions as per circular No.7/2013 while deciding the case after giving the assessee reasonable opportunity of being heard. It is ordered accordingly.

7. In the result, appeal of the assessee is allowed for statistical purposes.  
Pronounced in the open court on this 26<sup>th</sup> day of July, 2022.

Sd/-

**(N. V. VASUDEVAN)**  
**Vice President**

Sd/-

**(PADMAVATHY S)**  
**Accountant Member**

Bangalore,  
Dated, the 26<sup>th</sup> July, 2022.

*/Desai S Murthy /*

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|--------------|---------------|
| 1. Appellant | 2. Respondent |
| 3. CIT       | 4. CIT(A)     |
| 5. DR        | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.