

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

**BEFORE SHRI PRASHANT MAHARISHI ACCOUNTANT MEMBER
AND
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.3290/M/2022
Assessment Year: 1996-97**

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| M/s. Chemet, 2 nd Floor, Span Centre, 556, Ramkrishna Mission Road, Santacruz (West), Mumbai – 400 054 PAN: AA AFC0996P | Vs. | Asst. Commissioner of Income Tax, Circle-19(2), Aayakar Bhavan, Maharishi Karve Road, Mumbai - 400020 |
| (Appellant) | | (Respondent) |

Present for:

Assessee by : Shri M. Subramanian, A.R.
Revenue by : Shri B. Bagchi, D.R.

Date of Hearing : 21 . 03 . 2023
Date of Pronouncement : 31 . 03 . 2023

O R D E R

Per : Kuldip Singh, Judicial Member:

The appellant, M/s. Chemet (hereinafter referred to as 'the assessee') by filing the present appeal, sought to set aside the impugned order dated 11.11.2022 passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)) qua the assessment year 1996-97 on the grounds inter-alia that :-

“On the facts and in the circumstances of the case & in law, the learned A.O ought to have granted an amount of Rs.97,68,749/- interest u/s 244A of the act.

2 On the facts and in the circumstances of the case & in law, the learned CIT(A) erred in not directing the granting of interest u/s 244A of the act on the refund of Self-Assessment tax payment.

3. On the facts and in the circumstances of the case & in law, the learned CIT(A) erred in not directing the granting of interest u/s 244A of the act on the refund of tax paid on regular assessment.

4. On the facts and in the circumstances of the case & in law, the learned CIT(A) erred in not following the order passed by the Hon'ble Tribunal in the assessee's own case for the A.Y 1997-98 and directing the granting of interest on interest u/s 244A of the act on the refund of taxes.

Appellant craves leave to add, alter, amend and/or delete any or all of above grounds of appeal at any time.”

2. Briefly stated facts necessary for consideration and adjudication of the issues at hand are : the return of income filed by the assessee for A.Y. 1996-97 was processed under section 143(1A) of the Income Tax Act, 1961(for short 'the Act') determining the refund of Rs.78,56,103/- but without granting interest under section 244A of the Act and refund was issued on 29.10.1999. Thereafter the case was reopened under section 147 of the Act and assessment was framed under section 143(3) read with section 147 of the Act on 15.03.2000 by raising a demand of Rs.80,47,476/-, which was collected on 23.08.2000 by way of refund adjustment. The assessee challenged the assessment order passed under section 143(3) read with section 147 of the Act before the Ld. CIT(A) who decided the issue in favour of the assessee by determining the refund of Rs.93,14,949/- which includes interest under section 244A of Rs.12,67,476/-. Then the assessee had moved an application for rectification under section 154 of the Act before the Assessing Officer (AO) for non receipt of interest under section 244A of the Act and the AO passed an order dated 17.09.2009 under section 154 of the Act by granting interest of Rs.29,14,258/- under section 244A of the Act.

3. Aggrieved with the order passed by the AO under section 154 of the Act the assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has dismissed the same. Feeling aggrieved with the impugned order passed by the Ld. CIT(A) the assessee has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Ld. Authorised Representatives of the parties to the appeal, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and law applicable thereto.

5. The assessee has also filed an application under rule 29 of the Income Tax Appellate Tribunal Rules, 1963 (ITAT Rules) for leading evidence which could not be produced before the Ld. lower authorities annexed in the paper book running into 32 pages. The Ld. A.R. for the assessee contended that the piece of evidence sought to be led under rule 29 of ITAT Rules is intricately connected and relevant to the issue involved. Since the chronology of dates given by the assessee giving the details for which refund is admissible and to explain the levy of interest under section 244A of the Act, given summary of interest receivable and working of interest receivable under section 244A of the Act available at page 31 to 32 of the paper book, is necessary to be entertained to arrive at the logical conclusion to substantiate the cause of justice, so the additional evidence sought to be led by the assessee under rule 29 of the ITAT Rules is allowed.

6. Bare perusal of the impugned order passed by the Ld. CIT(A) goes to prove that the period for which the assessee has claimed the

interest under section 244A is not in dispute and the only dispute is as to how the computation of interest admissible to the assessee is to be made. All these facts are duly narrated by the assessee in the summary of interest receivable under section 244A of the Act and working of interest receivable under section 244A of the Act, which were not there before the AO as well as the Ld. CIT(A) at the time of deciding the application under section 154 of the Act and appeal before the Ld. CIT(A).

7. We are of the considered view that when period for which the assessee is entitled to receive the interest under section 244A of the Act is not in dispute the computation of interest receivable by the assessee under section 244A of the Act is required to be made afresh. For this purpose additional evidence is required to be examined by the AO. Consequently, the impugned order passed by the Ld. CIT(A) is set aside and appeal is remitted back to the AO to decide afresh by considering the additional evidence by providing opportunity of being heard to the assessee and by following the order passed by the co-ordinate Bench of the Tribunal in assessee's own case in ITA No.3547/M/2007 dated 04.02.2009 which is on identical facts as to how the assessee is entitled for refund and interest on interest due to the refund of tax.

8. Resultantly, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 31.03.2023.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER
Mumbai, Dated: 31.03.2023.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.