



2. The grievance of the Revenue read as under:

"1. The Ld. CIT(A) has erred in law as well as appreciating that he has deleted the interest u / s 244A such that interest accrued to the assessee should be reduced first and then the principal portion of tax. In this regard, it is submit d that such a provision exists under section 140A(I), in which amount paid by the assessee towards tax payable as a The amount paid by the assessee under self- assessment Jails short of the aggregate amount of tax and interest aforesaid, the amount paid shall first be adjusted towards the interest payable and the balance, if any, shall be adjusted towards the lax payable". However, a similar provision does not exist u/s 244A which provides for calculation of interest on refunds. The instant case pertains to section 244A and hence here is no provision to adjust interest refundable first.

2. That the appellant craves leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.

3. Representatives of both the sides were heard at length. Case records carefully perused.

4. The quarrel is as under:

*"While calculating interest on tax deposited by the assessee, the amount of refund paid on 05.11.2014 and 02.12.2011 including interest have been reduced from the principal sum of tax deposited by the assessee. The claim of the assessee is that it has lost interest on the principal portion reduced to the extent of interest paid u/s 244A of the Income-tax Act, 1961 [the Act, for short]."*

3. This claim of the assessee was made by way of an application u/s 154 of the Act, which was rejected by the Assessing Officer.

4. When this issue was agitated before the Id. CIT(A), the Id. CIT(A) found that the quarrel is squarely covered by the decision of the Hon'ble Jurisdictional High Court of Delhi in the case of India Trade Promotion Organization 361 ITR 646 wherein the Hon'ble High Court has held as under:

"6. The aforesaid manner of computation is not only applicable to cases where Revenue has to pay interest on refund, but is equally applied when an assessee is in default and interest is payable under Section 220(2) of the Act. Interest payable under Section 234B and 234C become part of

the demand notice issued under Section 156 and it is on this amount, i.e., the tax payable plus interest payable under Sections 234B and 234C that interest under Section 220(2) is calculated from the date mentioned in the notice of demand till the date of actual payment. Under Explanation to Section 140A(1), it is stipulated where the amount paid by an assessee under self-assessment falls short of the aggregate amount of tax and interest aforesaid, the amount paid shall first be adjusted towards the interest payable and the balance, if any, shall be adjusted towards the tax payable. The interpretation given by us follows the same principle, when Revenue defaults and makes part payment of the amount refundable. The aforesaid interpretation also ensures that the Assessing Officer/Revenue refund the entire amount, which is due and payable, including interest payable under Section 244A. It discourages part payment. There is no other provision under the Act under which an Assessing Officer/Revenue can be made liable to pay interest when part payment is made and the entire amount, which is refundable is not paid to the assessee. Otherwise the Assessing Officer/Revenue can refund the principal amount and not pay the interest component under Section 244A for an unlimited period with impunity and without any sanction, which would amount to granting premium to a non-compliance of law.

6.16 The Hon'ble High Court explained the provision by following example"

Suppose Revenue is liable to refund Rs.1 lac to an assessee with effect from 1 st April, 2010, the said amount is refunded along with interest due and payable under Section 244A on 31st March, 2013, then no further interest is payable. However, if only Rs.1 lac is refunded by the Revenue on 31st March, 2013 and the interest accrued on Rs.1 lac under Section 244A is not refunded, the Revenue would be liable to pay interest on the amount due and payable but not refunded. Interest will not be due and payable on the amount refunded but only on the amount which remains unpaid, i.e, the interest element, which should have been refunded but is not paid. In another situation where part payment is made, Section 244A would be still applicable in the same manner. For example, if Rs.60,000/- was paid on 31st March, 2013, Revenue would be liable to pay interest on Rs.1 lac from 1st April, 2010 till 31st March, 2013 and thereafter on Rs.40,000/-. Further, interest payable on Rs.60,000/-, which stands paid, will be quantified on 31st March, 2013 and on this amount, i.e., interest amount quantified, Revenue would be liable to pay interest under Section 244A till payment is made."

5. The ld. CIT(A) allowed the appeal of the assessee following the aforementioned decision of the Hon'ble Jurisdictional High Court of Delhi.
6. Since the ld. CIT(A) has followed the binding decision of the Hon'ble High Court of Delhi, no interference is called for. Appeal is dismissed.

16. In the result, the appeal of the Revenue in ITA No. 1224/DEL/2022 is dismissed.

The order is pronounced in the open court on 16.08.2023.

Sd/-

**[YOGESH KUMAR U.S.]**  
**JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: 16<sup>th</sup> August, 2023.

VL/

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. 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	
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Date on which the file goes to the Head Clerk	
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