

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

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI NARENDER KUMAR CHOUDHRY, JM

**ITA No. 1813/Mum/2023**

(Assessment Year: 2007-08)

DCIT,  
Circle 3(3)(1)  
Office of the Dy. Commissioner  
of Income Tax-Circle 3(3)(1),  
Room No.609, Aayakar Bhavan,  
M.K. Road, Churchgate,  
Mumbai-400 020

**(Appellant)**

Vs.

M/s Small Industries  
Development Bank of India  
SME development Centre,  
C-11, G Block,  
Bundra Kurla Complex,  
Bandra East,  
Mumbai-400 051

**(Respondent)**

**PAN No. AABCS3480N**

**Assessee by** : Ms. Vinita Shah, CA  
**Revenue by** : Mr. Raj Singh Meel, SR DR

**Date of hearing:** 07.08.2023

**Date of pronouncement** 22.08.2023

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**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. ITA No. 1813/Mum/2023 is filed by the Deputy Commissioner of Income tax, Circle 3 (3) (1), Mumbai (the learned Assessing Officer) for A.Y. 2007-08 against the appellate order passed by the National faceless appeal Centre Delhi [the learned CIT (A)] dated 21<sup>st</sup> March, 2023, wherein the appeal filed by the assessee against order passed under section 154 of the Act, dated 17<sup>th</sup> November, 2019, was allowed. Therefore, the



learned Assessing Officer is aggrieved and is in appeal before us.

02. The learned Assessing Officer is aggrieved by the direction of the learned CIT (A) to grant interest to the assessee under section 244A of the Act, for the month of January, 2019 to May, 2019. The learned Assessing Officer is further aggrieved that the learned CIT (A) has held that assessee should be granted interest under section 244A of the Act, up to the date of receipt of refund order by the assessee without appreciating the fact that under the Income-tax Act, 1961, provision is to grant interest under section 244A of the Act, up to the date of grant of refund and not up to the date on which refund was actually received by the assessee.
03. The brief fact shows that while passing the order giving effect to the order of the tribunal in ITA No. 4048 & 4220/Mum/2011 dated 23<sup>rd</sup> March, /2018 the total income of the assessee was determined at ₹ 1,218,421,430. According to that refund of ₹365,492,370 was determined. The above refund order was received by the assessee on 10<sup>th</sup> May, 2019. However, the interest under section 244A of the Act was calculated by the learned AO till the date of order giving effect i.e. December 2018. But the assessee received the refund order in May 2019 and therefore, the assessee was eligible for interest up to May 2019. The assessee preferred a rectification application before the learned Assessing Officer for non-receipt of interest on refund for the month of January 2019 to May 2019 on 17<sup>th</sup> May, 2019. Several reminders letters were also addressed to the Assessing Officer. However, the learned Assessing Officer is required to pass an order under section 154 of the Act within a period of six months from the end of the month in which application was made. But the learned Assessing Officer did not

pass any order of rectification either accepting or refusing the claim of the assessee and therefore, the assessee preferred an appeal before the learned CIT (A) seeking the above relief. The learned CIT (A) after considering the decision of the Hon'ble Bombay High Court in case of CIT vs. Pfizer Ltd in 191 ITR 626 (Bom) and the decision of the coordinate bench in case of Novartis India Ltd Vs. ACIT in ITA No. 1249/Mum/2010 dated 18<sup>th</sup> March, 2011 as well as the decision of the Hon'ble Bombay High Court in case of CITI bank Vs. CIT in ITA No. 6 of 2001 dated 17<sup>th</sup> July, 2003 held that assessee is entitled for interest up to the date when the Pay Order is actually received by the assessee pursuant to the order sanctioning the refund. Even, in the case of the assessee for A.Y. 2003-04 in ITA No. 3707/Mum/2012 dated 15<sup>th</sup> September, 2017 identical directions were given. In view of all those judgments the learned CIT (A) held that he finds merit in the claim of the assessee by holding that interest under section 244A of the Act is to be allowed up to the date of receipt of refund order. The learned AO is aggrieved with that and is in appeal before us.

04. The learned Departmental Representative referred to the provisions of section 244A of the Act and stated that interest is required to be granted up to the date of grant of the refund and not to the receipt of the refund order.
05. The learned Authorized Representative referred to the order of the learned CIT (A) stated that the order of the learned CIT (A) is following the decision of the Hon'ble Bombay High Court and therefore, there should not be any grievance to the revenue.
06. We have carefully considered the rival contentions and perused the orders of the lower authorities. The solitary issue before us in this appeal is that when the refund is issued to the assessee, the interest under section 244A of the Act is required to be



computed up to the date on which the refund order is received by the assessee. This is the mandate of the Hon'ble Bombay High Court in case of Pfizer Ltd (supra) and also in case of Citi bank (supra). Further, in assessee's own case for A.Y. 2003-04 the coordinate bench has given the direction based on the order of the Hon'ble Bombay High Court. Therefore, this issue is squarely covered in favour of the assessee. Accordingly, we do not find any infirmity in the order of the learned CIT (A) in directing the learned Assessing Officer to grant interest to the assessee under section 244A of the Act, up to the date of receipt of refund order. Accordingly, the grounds of appeal raised by the assessing officer are dismissed.

07. In the result, the appeal of the learned Assessing Officer is dismissed.

Order pronounced in the open court on 22.08.2023.

Sd/-  
(NARENDER KUMAR CHOUDHRY)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 22.08. 2023

*Sudip Sarkar, Sr.PS/ Dragon*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai