

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'F' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.945/Mum/2023 to 947/Mum/2023
(Assessment Year :2008-09 & 2009-10)**

DCIT-3(4) Mumbai	Vs.	M/s. Union Bank of India (Erstwhile Andhra Bank) Central Accounts Dept 6 th Floor Union Bank Bhavan 239, Vidhan Bhavan Marg Nariman Point, Mumbai - 400 021
PAN/GIR No.AAACU0564G		
(Appellant)	..	(Respondent)

Assessee by	Shri C Naresh
Revenue by	Shri Ankush Kapoor
Date of Hearing	28/08/2023
Date of Pronouncement	29/08/2023

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeals have been filed by the Revenue against separate impugned orders for the quantum of assessment passed u/s. 143(3) r.w.s. 254 for the A.Y.2009-10 and 2008-09.

2. In all the appeals, the common ground which has been raised by the Revenue reads as under:-

"Whether on the facts and in circumstances of the case and in law, the Ld. CIT(A) was justified in allowing the mandatory interest due u/s. 244A(1A) of the Act without appreciating the facts that section 244A[1A] and 153(5) of the Act were added by the legislature on 01.06.2016."

3. The contention of the assessee before the ld. CIT(A) was that, the ld. AO while giving effect to the order of the ITAT, has not granted mandatory interest due as per the provision of Section 244A(1A). The said provision was brought in the statute w.e.f. 01/06/2016 which reads as under:-

"In a case where a refund arises as a result of giving effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264, wholly or partly, otherwise than by making a fresh assessment or reassessment, the assessee shall be entitled to receive, in addition to the interest payable under sub-section (1), an additional interest on such amount of refund calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted."

4. The provision of Section 153(5) and 153(7) reads as under:-

"Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer 14[or the Transfer Pricing Officer, as the case may be,] wholly or partly, otherwise than by making a fresh assessment or reassessment 14[or fresh order under section 92CA, as the case may be], such effect shall be given within a period of three months from the end of the month in

which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner.

(7) Where effect to any order, finding or direction referred to in sub-section (5) or sub-section (6) is to be given by the Assessing Officer, within the time specified in the said sub-sections, and such order has been received or passed, as the case may be, by the income-tax authority specified therein before the 1st day of June 2016 the Assessing Officer shall give effect to such order finding or direction or assess reassess or recompute the income of the assessee on or before the 31st day of March, 2017.

5. Ld. CIT(A) held that in this case though the order of the Tribunal was passed on 17/12/2018 and the ld. AO ought to have given the effect to the said order before 31/03/2017. However, here in this case, the AO has given effect on 29/12/2017 and therefore, he held that the AO ought to have granted interest due as per the provisions of Section 244A(1A). Finally, ld. CIT (A) had directed the ld. AO in the following manner:-

“Regarding this issue, in its ground appeal, the appellant contended that the order of Hon ITAT was served before 01/06/2016 and the AO had given effect to the said order on 29/12/2017 and in view of this, additional interest as provided for u/s 244A(1A) rws 153(7) ought to have been granted. In view of this, the AO is directed to verify the contentions of the appellant and allow the mandatory interest due u/s 244A(1A) of the Act after due verification of the date and receipt of the order as per law. This ground is allowed.”

6. The only grievance of the department before us is that, since the order of the Tribunal was passed before 01/06/2016 and therefore, the provision of Section 244A(1A) is not applicable which was brought in the statute w.e.f. 01/06/2016. Once the order giving effect by the Assessing Officer has been passed after 01/06/2016 then sub-section (7) of Section 153 categorically provides that effect of any order referred to any Sub-section (5) is given by the AO and if such order has been received before the 1st day of June 2016, then the Assessing officer shall give effect to such order on or before 31/03/2017. Thus, the ld. AO was required to give interest as provided u/s. 244A(1A) r.w.s.153(7) and ld. CIT(A) has merely directed the ld. AO to verify and grant the monetary interest. We do not find any infirmity in the said direction and accordingly, the grounds raised by the Revenue in all the three years are dismissed.

7. In the result, appeals of the Revenue are dismissed.

Order pronounced on 29th August, 2023.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 29/08/2023
KARUNA, sr.ps

Copy of the Order forwarded to :

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

//True Copy//

ITA Nos. 945-947/Mum/2023
M/s. Union Bank of India

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai