

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SH. G. S. PANNU, PRESIDENT AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER**

ITA No.1440/Del/2023
(Assessment Year : 2012-13)

Amserve Consultants Ltd. 15 th Floor, Eros Corporate Towers, Nehru Place, New Delhi-110 019 PAN No. AAECA 8626 K (APPELLANT)	Vs.	ACIT Circle – 1(1) New Delhi-110 002 (RESPONDENT)
--	-----	---

Assessee by	Shri Salil Kapoor, Adv., Shri Utkarsh Gupta, Adv. & Shri Tarun Chanan, Adv.
Revenue by	Shri Kanv Bali, Sr. D.R.

Date of hearing:	11.10.2023
Date of Pronouncement:	12.10.2023

ORDER

PER CHANDRA MOHAN GARG, JM :

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 11.03.2023 for Assessment Year 2012-13.

2. Although, the assessee has raised as many as seven grounds in this appeal but except ground no.3 other grounds are argumentative and supportive to the main effective ground no.3, which reads as follows:

“3. *That in view of the facts and circumstances of the case and in law, the AO/NFAC has erred in not granting interest u/s 244A(1A) of the Act, without appreciating the fact that the*

additional refund arising in present case as a result of giving effect to an order u/s 254 of the Act has been granted beyond the time limit provided under the provisions of the Act.”

3. The Learned Counsel submitted that the AO/NFAC has erred in not granting interest under Section 244A(1A) of the Income-tax Act, 1961 (for short 'the Act'), without appreciating the fact that the additional refund arising in present case as a result of giving effect to an order passed by the Tribunal under section 254 of the Act has been granted beyond the time limit provided under the provisions of the Act. The Learned Counsel thus submitted that the documents/explanation filed by the assessee and material available on record has not been properly considered and judicially interpreted and have been wrongly ignored by the authorities below, therefore, the appropriate directions may kindly be given to the AO to grant additional refund claimed by the assessee.

4. Replying to the above, the Learned Sr. D.R. strongly opposed to the contentions of Learned Counsel of assessee. However, in all fairness, the Learned Sr. D.R. submitted that the Department has no serious objection if it is found just and proper to restore the issue to the file of the AO for verification of claim of assessee placed under section 244A(1A) of the Act.

5. On careful consideration of rival submissions of both the parties, we are of the considered view that the Ld. Sr. D.R. has not disputed the fact factual position which is also vivid from the orders of the authorities below that the AO has not considered the documentary evidences, explanation and all other relevant material available on record while adjudicating the grievance of the assessee. As agreed by

the Ld. Counsel as well as, Learned Sr. D.R. appearing on behalf of the Department, we are of the considered view that the claim of the assessee under section 244A(1A) of the Act requires factual verification and examination by the AO. Therefore, the sole grievance of assessee claiming entitlement of additional refund of Rs.59,57,611/- under section 244A(1A) of the Act is restored to the file of AO with a directions that he will adjudicate the issue afresh after allowing the due opportunity of hearing to the assessee and without being influenced from the earlier assessment and first appellate order. Needless to say that the assessee would be entitled to submit detailed explanation and all relevant documentary evidences and contentions in support of its claim and the case laws relied upon by the assessee. Accordingly, the sole grievance of assessee contained in Ground No.3 is allowed for statistical purposes.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 12.10.2023

Sd/-

**(G. S. PANNU)
PRESIDENT**

Sd/-

**(CHANDRA MOHAN GARG)
JUDICIAL MEMBER**

Date:- 12.10.2023

*Priti Yadav, Sr. PS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI