

IN THE INCOME TAX APPELLATE TRIBUNAL

"E" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA no.2571/Mum./2023

(Assessment Year : 2016-17)

Kotak Investment Advisors Ltd.

27, Bandra Kurla Complex, 7th Floor

Bandra Kurla Complex, Bandra (East)

Mumbai 400 051 PAN – AAACK5933H

..... Appellant

v/s

Dy. Commissioner of Income Tax

Circle-4(3)(1), Mumbai

..... Respondent

Assessee by : Shri Madhur Agrawal

Revenue by : Shri P.D. Choughule

Date of Hearing – 30/10/2023

Date of Order – 09/11/2023

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 26/05/2023, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2016-17.

2. In this appeal, the assessee has raised the following grounds:-

"Ground No.1 - Non grant of Interest u/s 244A

1. *The Commissioner of Income-tax (A), National Faceless Appeal Center (NFAC) (herein after referred to as "CIT(A)") erred not adjudicating the*

ground of appeal thereby not-granting interest u/s 24AA on the refund of tax amount of Rs.1,77,42,107 for 13 Months instead of 21 months i.e the period 1 April 2016 till the date of intimation 8th December 2017.

2. *He failed to appreciate and ought to have held that:*
 - a. *Interest u/s 24AA is payable from 1st April 2016 till date of grant of Refund since the refund is arising from TDS.*
 - b. *The Appellant has filed its return of income on 24th November 2016 i.e before the due date of 30th November 2016 u/s. 139(1).*
 - c. *Since entire refund is arising out of TDS and Appellant has filled its return of income before due date, the Appellants case is covered u/s. 244A(1)(a)(i) and interest is to be granted from 1st day of April of the assessment year to the date on which the refund is granted.*
 - d. *The Appellant is entitled for Interest u/s 244AA from 1.4.2016 to 08.12.2017 for 21 months.*
3. *Your Appellant prays that the AO may be directed to grant interest under section 244A of the Income tax Act, 1961 for the period 1.4.2016 to 08.12.2017 for 21 months.*
4. *Without prejudice to the above, AO may be directed to grant interest under section 244A of the Income tax Act, 1961 for the period 1.4.2016 to 15.02.2018 for 23 months since refund was granted 15.2.2018."*

Ground No.2-Interest u/s 244A consequential to Ground No 1

1. *The CIT(A) erred not adjudicating the ground of appeal thereby not granting interest under 244A of the Income tax Act, 1961 on additional refund that becomes due consequent upon the relief granted in the appeal from 1.4.2016 to the date of grant of refund i.e. 15.2.2018*
2. *Consequent upon relief granted in the Appeal, interest be granted under 244A of the Income tax Act, 1961 on additional refund that becomes due consequent upon the relief granted from 1.4.2016 to the date of grant of refund.*
3. *Your Appellant prays that the AO may be directed to grant interest under section 244A of the Income tax Act, 1961 from 1.4.2016 till the date of grant of refund i.e. date of refund cheque i.e. 15.2.2018.*

The Appellant craves leave to add, amend, alter or delete any of the above grounds of appeal as may be advised in due course."

3. The brief facts of the case, as emanating from the record, are: For the year under consideration, the assessee filed its return of income on 24/11/2016 declaring a total income of Rs. 2,65,16,710 and claimed the

refund of Rs. 1,79,45,910. The return filed by the assessee was processed vide intimation dated 08/12/2017 issued under section 143(1) of the Act accepting the returned income. Since the tax deducted at source was higher than the aggregate income tax liability of the assessee, a refund of Rs. 1,77,42,107 was granted to the assessee. On the said refund, interest of Rs. 11,53,237 was computed under section 244A of the Act. Accordingly, a total income tax refund of Rs. 1,88,95,344 was computed vide aforesaid intimation issued under section 143(1) of the Act.

4. In its appeal before the learned CIT(A), the assessee specifically raised a ground that the assessee is entitled to the interest under section 244A of the Act on income tax refund for a period of 21 months, i.e. computed from the 1st day of the April of the assessment year, instead of 13 months, i.e. computed from the date of filing return of income, as granted vide aforesaid intimation, as it's case is covered under the provisions of section 244A(1)(a)(i) of the Act. However, it is evident from the impugned order that the learned CIT(A) gave no directions in respect of this issue. Being aggrieved, the assessee is in appeal before us.

5. We have considered the submissions of both sides and perused the material available on record. The only dispute raised by the assessee, in the present appeal, is against the short grant of interest on income tax refund under section 244A of the Act. Before proceeding further, it is relevant to analyse the provisions of section 244A(1)(a) of the Act, which reads as under:-

"Interest on refunds.

244A. (1) Where refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely :—

[(a) where the refund is out of any tax collected at source under section 206C or paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period,—

(i) from the 1st day of April of the assessment year to the date on which the refund is granted, if the return of income has been furnished on or before the due date specified under sub-section (1) of section 139; or

(ii) from the date of furnishing of return of income to the date on which the refund is granted, in a case not covered under sub-clause (i);”

6. Therefore, as per the provisions of section 244A(1)(a)(i) of the Act, where a refund of any amount becomes due to the assessee then in addition to the said amount the assessee is entitled to receive simple interest calculated from the 1st day of the April of the assessment year to the date on which the refund is granted, if (i) the return of income has been furnished on or before the due date specified under section 139(1) of the Act, and (ii) where the refund is out of any tax collected at source or paid by way of advance tax. In the present case, it is undisputed that the due date for filing the original return of income was 30/11/2016 and the assessee filed its return of income on 24/11/2016. Further from the intimation issued under section 143(1) of the Act, it is evident that the total tax liability was computed at Rs. 2,07,52,534 while that tax deducted at source was Rs. 3,84,94,641. It is further evident that the self-assessment tax was Nil. Thus, it is sufficiently discernible from the record that the refund issued to the assessee is out of tax deducted at source. Therefore, both the conditions of section 244A(1)(a)(i) of the Act, as

noted above, are satisfied in the present case. Accordingly, we are of the considered view that in the present case, the assessee is entitled to receive interest on income tax refund under section 244A(1)(a) of the Act from the 1st day of the assessment year, i.e. 01/04/2016, to the date on which the refund was granted, i.e. 15/02/2018. Further, we find that clause (ii) is not applicable to the present case, as the same is only applicable to the cases that are not covered under clause (i) to section 244A(1)(a) of the Act. Therefore, in view of the facts and circumstances as noted above, we direct the AO to compute the interest as per our aforesaid findings and grant the same to the assessee as per law. Accordingly, the only dispute raised by the assessee, in the present appeal, is decided in its favour.

7. In the result, the appeal by the assessee is allowed.

Order pronounced in the open Court on 09/11/2023

Sd/-
PRASHANT MAHARISHI
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 09/11/2023

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai