

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No. 820/Bang/2023
Assessment year : 2018-19

Sandeep Singhal, Villa 106, Adarsh Palm Retreat, Varthur Post, Outer Ring Road, Devarabeesanahalli, Bengaluru – 560 103. <b>PAN: ANIPS 2356J</b>	Vs.	The Assistant Commissioner of Income Tax, Circle 4(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri T. Suryanarayana, Senior Advocate
Respondent by	:	Shri Subramanian S. Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	28.02.2024
Date of Pronouncement	:	30.04.2024

**ORDER**

*Per Bench*

This appeal is filed by the assessee against the Order dated 24.8.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2018-19.

2. The appeal is time barred by two days. The Id. AR submitted the appeal was filed on 25.10.2023 on the next working day of the Tribunal since 23<sup>rd</sup> & 24<sup>th</sup> October, 2023 were gazetted holidays and

filed a copy of list of holidays during 2023. He therefore submitted the appeal was not time barred. After perusing the record, we accept the submission of the ld. AR that the appeal is not time barred.

3. The only issues raised in this appeal is chargeability of interest u/s. 234C of the Act in the rectification order u/s. 154 passed by the AO and the AO considering the demand of Rs.59,19,622 without issuing a demand notice u/s. 156 while passing rectification order u/s. 154 of the Act.

4. The brief facts of the case that the assessee filed return of income and declared total income of Rs.42,31,68,710. The return was processed u/s. 143(1) and income was computed at Rs.51,93,70,100. The case was selected for scrutiny and statutory notices were issued to the assessee. In the assessment u/s. 143(3) dated 10.02.2021, income determined u/s. 143(1) was considered as assessed income. The assessee filed rectification application u/s. 154 on 23.02.2021 stating that in the computation sheet of the said order, income from business or profession is at Rs.33,06,38,968 instead of Rs.23,44,37,568 as disclosed in the income tax return filed, because AO has not given impact of section 10(2A) by not considering Rs.9,62,01,398 being share of profit from the LLP as exempt. The rectification application was accepted and the AO passed rectification order on 23.08.2021 and income from business or profession was revised at Rs.23,44,37,568. But interest u/s. 234C at sl.no.43 of the computation sheet to the rectification order dated 23.08.2021 remained the same at Rs.69,04,998

as per the order u/s. 143(3) dated 10.02.2021. Hence the assessee filed appeal against the rectification order.

5. The CIT(Appeals) after considering various judgments dismissed the appeal of the assessee by observing as under:-

“5.4 In view of the Supreme Court decision, chargeability of interest *per se* can be challenged but quantum of interest cannot be appealed against. Hence, the appeal of the appellant is dismissed.”

6. Aggrieved from the above order, the assessee is in appeal before the ITAT.

7. The Id. AR reiterated the submissions made before the lower authorities which is incorporated in the CIT(Appeals) order. He also filed a paperbook containing pages 1-48. He submitted that there is a mistake apparent on the face of record that interest u/s. 234C remains the same as per 143(1) order, 143(3) order and rectification order u/s. 154 also. He further submitted that once the income of the assessee gets reduced, accordingly the interest u/s. 234C should also be reduced. He submitted the assessee has computed the interest of Rs.9,84,375. Therefore there is a mistake apparent on record on the interest u/s. 234C, to which the CIT(Appeals) has without deciding the issue on merits, dismissed the appeal of the assessee.

8. The Id. DR relied on the order of the AO. He submitted that interest u/s. 234C is rightly computed as per the provisions of the Act. Therefore the CIT(Appeals) has rightly dismissed the appeal of the assessee.

9. Considering the rival submissions, we note that in the intimation u/s. 143(1) income from business or profession has been considered at Rs.33,06,38,966 and interest u/s. 234C charged at Rs.69,04,998 as per sl.No.39c. The AO in the 143(3) order considered the income determined u/s 143(1) as assessed income and interest u/s. 234C is also the same as per 143(1) order. The AO accepted the rectification application of assessee and rectified income from business or profession at Rs.23,44,37,568, but interest u/s. 234C was retained at the same figure as in 143(3) / 143(1) order. We note from the order u/s. 143(3) that the net tax liability as per sl.no.38 of the computation sheet is Rs.18,41,42,872 and after passing the rectification order u/s. 154 the net tax liability as per sl.no.38 is Rs.14,99,57,707 however the interest u/s 234C at Sr. No. 41 is same of Rs. 69,04,998/- under both the computation sheet. It is obvious that the interest u/s. 234C should be effected, since the income of the assessee got reduced. Therefore, in our considered opinion, there is a mistake apparent on the face of record regarding computation of interest u/s 234C at Sr. No. 41 of the computation sheet after rectification order u/s. 154. The assessee has computed interest u/s. 234C at Rs.9,84,375. Therefore, this issue is remitted back to the AO for verification of interest u/s. 234C computed by the assessee and decision as per law. The assessee is directed to substantiate its case before the AO as required.

10. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 30<sup>th</sup> day of April, 2024 as per Rule 34 of the ITAT Rules.

Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER

Sd/-  
(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 30<sup>th</sup> April, 2024.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.