

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

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA Nos.403 and 404/Bang/2024
Assessment Years : 2021-22 and 2022-23

M/s. The Bangalore City Institute, No.8, Pampa Mahakavi Road, Basavanagudi, Bengaluru – 560 004. PAN : AAATT 7451 L	Vs.	ITO (Exemptions), Ward – 2, Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Sudheendra B. R, Advocate
Revenue by	:	Shri. Saravanan B, CIT and Shri. Subramanian S, JCIT (DRs)(ITAT), Bengaluru.

Date of hearing	:	30.04.2024
Date of Pronouncement	:	30.04.2024

ORDER

Per George George K, Vice President:

These appeals at the instance of the assessee are directed against two orders of CIT(A) (both orders dated 23.01.2024), passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Years are 2021-22 and 2022-23.

2. The learned AR submitted that he is not pressing ITA No.404/Bang/2024 pertaining to Assessment Year 2022-23, since assessee had obtained relief pursuant to the rectification order passed by the CPC. In view of the submission of the learned AR, ITA No.404/Bang/2024 is dismissed as infructuous.

3. The facts pertaining to Assessment Year 2021-22 in ITA No.403/Bang/2024 are as follows:

Assessee is a club registered under the Karnataka Societies Registration Act, 1960. Assessee derives income from subscription fee, rental receipts, interest on term deposits and other income. For the Assessment Year 2021-22, the return of income was filed on 12.01.2022 wherein the surplus of income over expenditure (interest income) was claimed as not chargeable to tax on the basis of principle of mutuality. The interest income on term deposits earned during the year amounting to Rs.76,30,540/- was offered to tax following the dictum laid down by the Hon'ble Supreme Court in the case of Bangalore Club Vs. CIT (2013) 350 ITR 503 (SC). In the return of income, assessee offered the aforesaid interest income to tax and declared the status as AOP/BOI. The tax on total income was computed at slab rates applicable. The taxes were duly paid in the form of prepaid taxes and self-assessment tax.

4. The return of income was processed and intimation under section 143(1) of the Act was issued on 02.11.2022. In the said intimation, the return of income was accepted. However, tax on the total income was computed at Maximum Marginal Rate (MMR) resulting in variation of tax, surcharges, cess and interest. Accordingly, the demand payable was computed at Rs.10,89,390/-.

5. Aggrieved by the intimation issued under section 143(1) of the Act levying of tax at MMR, assessee filed appeal before the First Appellate Authority (FAA). The FAA rejected the contentions of the assessee vide impugned order dated 23.01.2024.

6. Aggrieved by the Order of the Additional / JCIT(A), assessee has filed the present appeal before the Tribunal. The learned AR submitted that assessee parallelly filed online rectification before the CPC. It was submitted that CPC passed an order under section 154 of the Act on 08.04.2024 rectifying the intimation passed under section 143(1) of the Act, dated 02.11.2022 wherein the tax liability computed on total income at slab rates has been accepted in the rectification order (instead of MMR). However, the learned AR submitted that interest under section 234A of the Act was computed and levied for 28 months from November, 2021 to February, 2024 i.e., till the month in which online rectification request was submitted with CPC on 17.02.2024. It was submitted that the calculation of interest under section 234A of the Act upto February, 2024, is erroneous and same is to be calculated only upto the date of filing of the return of income i.e., 12.01.2022.

7. The learned DR was duly heard.

8. We have heard the rival submissions and perused the material on record. In the present case, the self-assessment tax of Rs.4,96,040/- was paid on 11.01.2022 and the return of income was filed on 12.01.2022. Thus, the interest under section 234A of the Act *prima facie* is to be levied only on Rs.4,96,040/- for three months from November, 2021 to January, 2022. Therefore, the levy of interest under section 234A of the Act for 28 months from November, 2021 to February, 2024 i.e., till the month in which online rectification request was submitted on 17.02.2024 is *prima facie* a mistake apparent from record. In this context, it is pertinent to mention that for Assessment Year 2022-23, the CPC passed the rectification order on 08.04.2024 with a correct date of filing of the return of income and without levy of interest under section 234A of the Act. Therefore, in the interest of justice and equity, we are of the view that this issue

needs to be examined / addressed by the AO. Hence, ground No.3 raised in this appeal which relates to the levy of interest under section 234A of the Act is restored to the files of the AO. It is ordered accordingly.

9. In the result, appeals filed by the assessee in ITA No.404/Bang/2024 is dismissed as infructuous and ITA No.403/Bang/2024 is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 30.04.2024.

/NS/*

Copy to:

1. Appellants
2. Respondent
3. DRP
4. CIT
5. CIT(A)
6. DR, ITAT, Bangalore.
7. Guard file

By order

Assistant Registrar,
ITAT, Bangalore.