

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C", MUMBAI  
BEFORE SHRI GAGAN GOYAL, ACCOUNTANT MEMBER AND  
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER  
**ITA No. 568/Mum/2024 (A.Y.2021-22)**

**Oriental Electrical Components Pvt. Ltd.,**  
75AB, Government Industrial Estate,  
Ganesh Nagar, Charkop, Kandivali West  
Mumbai-400 067  
**PAN: AAACO7101M**

..... Appellant

Vs.

**DCIT-13(1) (2)**  
Aayakar Bhavan,  
Mumbai-400020

..... Respondent

Appellant by : Shri Umang Shah, Ld. AR  
Respondent by : Shri H. M. Bhatt, Ld. DR  
Date of hearing : 04/06/2024  
Date of pronouncement : 01/08/2024

**ORDER**

**PER GAGAN GOYAL, A.M:**

This appeal by assessee is directed against the order of National Faceless Appeal Centre (for short "NFAC") dated 11.07.2023 passed u/s. 250 of the Income Tax Act, 1961 (in short 'the Act') for A.Y. 2021-22. The assessee has raised the following grounds of appeal:-

1. Ld. Commissioner of Income-Tax (Appeals) erred in law and on facts in not granting sufficient opportunity of being heard to the Appellant before adjudicating the appeal against the Appellant.

Appellant submits that in view of the facts and circumstances of the case as well as in law the said order of Ld. CIT (A) is bad in law and deserves to be quashed.

2. Ld. Commissioner of Income-Tax (Appeals) erred in citing that no appeal can be filed u/s. 246A merely on the quantum of interest so charged under the Act and hence the appeal is not maintainable u/s. 246A of the Act.

Appellant submits that in view of the facts and circumstances of the case as well as in law the said order of Ld. CIT (A) is bad in law and deserves to be quashed.

3. Ld. Commissioner of Income-Tax (Appeals) erred in confirming the order of Learned Assessing Officer charging excessive interest u/s. 234A of the Act.

Appellant submits that in view of the facts and circumstances of the case as well as in law the said order of Ld. CIT (A) confirming the excessive interest charged u/s. 234A of the Act is bad in law and deserves to be quashed.

4. Ld. Commissioner of Income-Tax (Appeals) erred in confirming the order of Learned Assessing Officer charging excessive interest u/s. 234B of the Act.

Appellant submits that in view of the facts and circumstances of the case as well as in law the said order of Ld. CIT (A) confirming the excessive interest charged u/s. 234B of the Act is bad in law and deserves to be quashed.

Appellant prays for appropriate relief.

Each of the above ground is without prejudice to one another.

Appellant craves leave, to add, alter, amend or withdraw any of the above Grounds of Appeal.

2. The brief facts of the case are that the Assessee is a Company which filed its return of income on 28.01.2022 and thereafter revised its return of income on 15.02.2022 declaring total income at Rs. 32,82,10,700/-. The return of the

Assessee was processed under section 143(1)(a) of the Act by CPC, Bengaluru on 17.09.2022, wherein due to miscalculation of interest under section 234A and 234B of the Act, resulted in a demand of Rs 2,23,760/-.

3. The Assessee being aggrieved by the intimation issued by CPC, Bengaluru preferred an appeal before the National Faceless Appeal Centre, Delhi (NFAC) wherein the Assessee and challenged the quantum of interest charged u/s. 234A and 234B of the Act. The Ld. CIT (A) vide his order dated 11.07.2023 held that as per Section 246A of the Act Appeals to the Commissioner Appeals may be filed only as to the adjustments made, thereafter the Ld. CIT (A) held that in the Assessee's case there was no adjustment made under section 143(1)(a) of the Act. The Ld. CIT (A) further held that the interest charged under Section 234A, 234B and 234C of the Act does not come under the definition of "tax" as per section 2(43) of the Act and that no appeal can be filed against the quantum of such interest chargeable under the Act. The Ld. CIT (A) also held that an appeal is limited only to the extent of disputing the liability to pay interest, and when the liability to be charged interest is not denied then the quantum determined cannot be a subject of appeal under Section 246A. The Ld. CIT (A) placed reliance on the Hon'ble Gujarat High Court in the case of **Bhikoobhai N Shah Vs. Commissioner of Income Tax (1977) 1978 114 ITR 197 (Guj)**. Thus, the Ld. CIT (A) held that the Appeal under section 246A of the Act was not maintainable. We have gone through the citation in the case of **Bhikoobhai N Shah Vs. Commissioner of Income Tax**, but found the same is not applicable on the facts of the case.

4. On the issue of there not being sufficient prior intimation, the Ld. CIT (A) held that as such an intimation is mandatory only when there are adjustments

enumerated under section 143(1)(a) of the Act and as in the instant case there are no adjustments made the Ld. CIT(A) concluded the requirement of prior notice was not violated. The Assessee being aggrieved with this order preferred the present appeal before us. We have gone through the order passed under section 143(1) of the Act, the order of the Ld. CIT(A) passed under section 250 of the Act, and submissions of the Assessee alongwith grounds taken before us. It is observed that the Assessee had discharged the whole tax liability while filing its return of income originally under section 139(1) of the Act vide dated 15.02.2022. The only issue before us is whether the amount of interest charged by CPC, Bengaluru under section 234A and 234B of the Act are correctly worked out or not. We observed that there is no gap between the claims of the Assessee about payment of taxes vis-à-vis accepted by the CPC- Bengaluru. The issue before us is whether the appeal under Section 246A of the Act is maintainable before the Ld. CIT (Appeals). The only gap is that the CPC-Bengaluru has calculated the interest under Sections 234A, 234B and 234C of the Act differently. We further observed the intimation sheet furnished by the Assessee vide internal Pg. 17 of the Paperbook and found the same to be correct. But this calculation of the Assessee has neither been considered by CPC Bengaluru nor by the Ld. CIT (A).

5. In these circumstances and facts on record we restore the matter back to the file of Ld. CIT (A) with the direction that a fresh hearing or being heard to be given to the Assessee on the issue of charging of Interest keeping in view the ratio laid down by the Hon'ble Gujarat High Court in the case of **Bharatbhai B. Shah versus Income-Tax Officer: (2013) 355 ITR 373** and the Hon'ble Delhi High Court in the case of Dr. Prannoy Roy (2002) 254 ITR 755 (Del.)

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

Order pronounced in the open court on 1<sup>st</sup> day of August, 2024.

Sd/-

(SUNIL KUMAR SINGH)

JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 01/08/2024

*Sr. PS (Dhananjay)*

Sd/-

(GAGAN GOYAL)

ACCOUNTANT MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**