

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.2191/Mum/2024
(Assessment Year :2017-18)**

M/s. Mape Advisory Group Private Limited 10, Vasant Vihar 2 nd Floor New Nagardas Cross Road Andheri (East) Mumbai – 400 069	Vs.	DCIT Circle 5-2-1- Mumbai Room No.571, 5 th Floor Aayakar Bhavan M.K.Road Mumbai- 400 020
PAN/GIR No.AACCM8193M		
(Appellant)	..	(Respondent)

Assessee by	Shri Vijay Shah
Revenue by	Shri Sunil Shinde
Date of Hearing	13/08/2024
Date of Pronouncement	22/08/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 28/03/2024 passed by NFAC, Delhi for the A.Y.2017-18 against order u/s.154.

2. In the grounds of appeal the assessee has challenged short grant of interest u/s.244A of following grounds:-

Short grant of interest under section 244A of the Act.

“(a) On the facts and in the circumstances of the case, the Hon'ble CIT (A) has erred in law and facts in not computing interest u/s 244 of the Act and not allowing interest under section 244A of the Act, on refund, up to the date of refund cheque.

(b) On the facts and in the circumstances of the case and in law, the Hon'ble CIT (A) erred in confirming the withdrawal of interest amounting to Rs 5,68,036 under section 244A(2) of the Act, made by the Deputy Commissioner of Income Tax

(c) On the facts and circumstances of the case and in law, the Hon'ble CIT (A) ought to have held that the Ld. Assessing Officer erred in not adjusting the total refund, first towards the interest component under section 244A(1) and the balance towards the principal tax component.

(d) On the facts and circumstances of the case and in law, the Hon'ble CIT(A) ought to have held that the Ld. Assessing Officer erred in calculating the refund by appropriating the earlier refunds granted towards the interest as calculated then (i.e. at the time of earlier refund issued) as against the revised interests computed at the time of granting the latest refund.”

3. The brief facts are that the assessee has filed its return of income for A.Y.2017-18 on 23/10/2017 declaring total income at Rs. 'Nil' and book profit u/s.115JB at Rs.68,12,336/- and claimed refund amounting to Rs.1,26,23,014/-.The assessment u/s.143(3) was completed on 19/12/2019 accepting the return income. Thereafter, the assessee filed a rectification / grievance application u/s.154 on 26/04/2022 stating that assessee received refund of Rs.1,35,68,281/- and was also entitled for interest u/s.244A amounting to Rs.26,50,833/- for the period of 42 months starting from 01/04/2017 to 18/09/2020. However, the ld. AO has partly allowed the rectification holding as under:-

3. On verification of the records available, it is found that the assessee has filed defective ROI on 23/10/2017 and filed valid ROI on 17/01/2018. Hence, for calculation of Interest u/s 244A the aforesaid period has been excluded. Therefore as per computation sheet dated the assessee has been given 244A amounting to Rs. 15,14,760/- for the period of 24 months (from January 2018 to December 2019) @%% per month.

4. Therefore, as per computation sheet, the system has rightly calculated the Refund of Rs. 14137774/- including interest u/s 244A i.e (12623014+1514760)

5 However, the assessee has received refund of Rs. 13568281/- further amount of Rs. 1190/- and 264/- adjusted against demand of AY 2015-16. Hence, total refund already issued/credited amounting to Rs. 13569735/- Therefore, there is short credit of refund of Rs. 568039/- Since the mistake is apparent from the record, the same is rectified u/s 154 of the IT Act

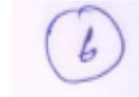
6. Total income computed as per order u/s 143(3) of the Act remains unchanged Revised accordingly, Issue revised notice of demand/rectification order accordingly as applicable after allowing credit of taxes if any as stated above charged interest u/s. 244A, 234B, 234C and 234D as per provisions of the IT Act.

4. The ld. CIT (A) too has dismissed the appeal holding as under:-

“3.2 The AO made the rectification order u/s 154 on 20.07.2022 regarding entitlement of interest u/s 244A of the IT Act. The AO mentioned that the Appellant had filed defective ROI on 23.10.2017 and filed valid ROI only on 17.01.2018. Therefore, interest u/s 244A amounting to Rs. 15,14,750/- was given to the Appellant for the period from January 2018, in which ROI was validly filed, to December, 2019, in which assessment was completed. However, the Appellant is demanding interest from April, 2017 to September, 2020, in which the refund was credited in his bank account. In this respect, I have gone through the communication letter issued by CPC and the provisions of IT Act

regarding giving interest on refund u/s 244A of the IT Act. As per the communication of CPC, it is clearly mentioned that the Appellant has not filed Form No. 29B electronically as per the proviso under Rule 12(2) of IT Rules and hence the ROI filed on 23.10.2017 was considered as defective. However, the Appellant is claiming that Form No. 29B was filed on 18.10.2017. As the system is showing that Form No 29B was not filed within due date, the claim of the Appellant is not acceptable. Further, the Appellant has claimed the interest on refund up to the date of credit of refund in his bank account. As per provision u/s 244A of the IT Act, the interest on refund to be given up to the date on which refund is granted. In this respect, it is to be mentioned that the date of refund granted is considered as the date on which order for refund is issued by the system. The date of refund granted is not the date on which refund is credited in the bank account of the assessee. Further, the Appellant has cited judgement of Hon'ble High Court of Delhi, however I find that the facts in that case was different as in that case correct interest could not be granted due to some technical problem. In view of these facts and circumstances, I held that the interest given by the AO through rectification order u/s 154 is reasonable and hence the grounds of appeal are dismissed.”

5. After hearing both the parties and on perusal of the material referred to before us, it is seen that **assessee had filed original return of income on 23/10/2017**. Before the return of income assessee had electronically filed **Form No.29B which is required u/s.115JB, was e-filed on 18/10/2017** and in support assessee has also filed acknowledgement of e-filing, the screenshot of which is as under:-



Akshita P

From: DONOTREPLY via Finance 1 <finance1@mapegroup.com> on behalf of DONOTREPLY
via Finance 1
Sent: 18 October 2017 17:12
To: finance1@mapegroup.com
Subject: Confirmation on acceptance of IT Form

Dear MAPE ADVISORY GROUP PRIVATE LIMITED,

The e-Filing of form 29B for 2017-18 has been successfully submitted and the Transaction ID is 4664587933.

The Acknowledgment Number is 248442191181017.


The submitted Form would be sent for further processing. In case there are any discrepancy, a notification will be sent to your registered e-mail. Kindly check for email from e-Filing.

This is a system generated e-mail and please do not reply. Add donotreply@incometaxindiaefiling.gov.in to your white list/safe sender list. Else, your mailbox filter or ISP (Internet Service Provider) may stop you from receiving e-mails.

Regards,
e-Filing Team,
Income Tax Department



7



e-Filing Anywhere Anytime
 Income Tax Department, Government of India

ACKNOWLEDGEMENT OF RECEIPT OF FORM 29B (Other Than ITR)

Name	MAPE ADVISORY GROUP PRIVATE LIMITED	PAN	AACCM8193M
Form No.	29B	Assessment Year	2017-18
e-Filing Acknowledgement Number	248442191181017	Date of e-Filing	18/10/2017 04:52:46 PM

For and on behalf of,
e-Filing Administrator

(This is a computer generated Acknowledgement Receipt and needs no signature)



THIS ACKNOWLEDGEMENT TO CPC, BANGALURU

6. Thereafter, CPC sent notice vide communication dated 12/01/2018 treating the return to be defective u/s. 139(9) on the following grounds:-

PAN: स्थायी खाता संख्या AACCM8193M		Assessment Year: निर्धारण वर्ष 2017-18	Communication Reference No. पत्र संदर्भ संख्या CPC/1718/G5/1745531847
Part -A			
Sl.No	Error Code	Error Description	Probable resolution
1	84	Assessee is computing tax as per MAT, in the return of income filed. However, Form No.29B has not been electronically filed, which is a mandatory requirement as per the proviso under Rule 12(2) of the Income Tax Rules, 1962. Hence, as per clause (a) of the explanation under section 139(9), the return filed is regarded as defective.	Taxpayer has to e-file the Form No.29B, as specified in the proviso under Rule 12(2) of Income Tax Rules, 1962.

7. Thus, the return was treated defective on the ground that in the return of income assessee has not filed Form No.29B electronically. However, as noted above assessee has filed Form No.29B on 18/10/2017 itself as per acknowledgement of receipt of Form No.29B as incorporated at pages 5 & 6 of the order. Thus, there was no defect at all in the return of income filed on 23/10/2017. Further, assessee again filed return of income on 17/01/2018 in response to notice u/s. 139(9) as required. However, the return filed originally on 23/10/2017 is to be treated as valid return u/s 139(1) as there was no defect and the defect which was pointed out in the notice u/s.139(9) by the CPC was incorrect as noted above. Thus, once assessee has filed the return of income within the due date, then for the purpose of calculation interest on refund in terms of Section 244A, the interest has to be given from first day of April of 2017 till the

date on which refund is granted. The relevant provision of Section 244A reads as under:-

“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).”

8. Here in this case refund was on account of tax deducted at source and since assessee has filed the return of income within the due date specified u/s.139(1) therefore, it was entitled for refund from 1st of April 2017 as per *clause (i) (supra)*. Further, the refund has been credited in the account of the assessee on 18/09/2020. Accordingly, ld. AO is directed to calculate the interest u/s.244A from 1st April 2017 till the date on which refund is granted in accordance with law.

9. In so far as the observation and the finding of the ld. CIT(A) after noting all the facts, it is seen that he is relying on the ITB system that Form 29B was not filed within the due date and

therefore, the claim of the assessee is not accepted. He has neither tried to find out whether assessee had e-filed form No. 29B when the portal of the Income Tax Department itself is showing that it was filed on 18/10/2017 and also there is a date and time for e-filing as per the acknowledgement noted above. If all these were filed before him, then how can he give a finding that it was not filed within the due date? The CPC or the system can make an error, but human mind should at least verify and apply correct provisions of law while dealing with such matters. When the facts are brought on record before the authorities through rectification application u/s.154 before the ld. AO and then again before the ld. CIT (A), then it is incumbent upon the authorities at least to examine the facts as brought on record, rather than injudiciously dismiss the petition or appeal. If the same system is mentioning that the Form 29B was e-filed on 18/10/2017 and generates acknowledgement for successful filing, then how it can be said that Form No.29B was not filed within the due date when the same was filed prior to the due date of return of income. Thus, such a finding of the ld. CIT (A) and the ld. AO is set aside and accordingly, we direct the ld. AO to grant interest u/s.244A in accordance with law as directed above.

10. In the result, appeal of the assessee is allowed.

Order pronounced on 22nd August, 2024.

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 22/08/2024

KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai