

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "H", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER

ITA NO. 3148/Del/2024		
A.YR. : 2021-22		
TRISIGMA APEX SERVICES LLP, 01-0103, C-BLOCK, COMMUNITY CENTRE, IMPERIAL TOWER, NARAINA INDUSTRIAL ESTATE, SOUTH WEST, NEW DELHI – 28 (PAN: AAHFT4549G)	VS.	DCIT, CIRCLE 49(1), NEW DELHI CIVIC CENTRE, NEW DELHI
(APPELLANT)		(RESPONDENT)

Appellant by : Sh. Atul Ninawat, CA
Respondent by : Shri Amit Katoch, Sr. DR.

Date of hearing : 12.11.2024
Date of pronouncement : 20.11.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. Addl/JCIT(A), Madurai, dated 09.05.2024, relating to assessment year 2021-22 on the following grounds:-

- 1. The order passed u/s. 250 of the Act is bad in law and on the facts and circumstances of the case.*
- 2. The AO, CPC erred in not providing an opportunity of being heard to the assessee before levying interest u/s. 234A.*
- 3. The Ld. CIT(A) has erred in law and on facts and circumstances while upholding the actions of AO for imposition of interest*

amounting to Rs. 7,18,983/- u/s. 234A beyond the date on which self assessment tax including the interest u/s. 234A upto the date is already paid.

- 4. The Ld. CIT(A) as well AO, CPC has erred in calculating the interest u/s. 234A till the date of filing of income tax return ignoring the fact that interest should be calculated only till the date of deposition of tax in light of relief provided by CBDT circular.*
- 5. The Ld. CIT(A) as well as AO, CPC has erred in facts and law in interpreting the circulars as well as judicial rulings.*
- 6. The Ld. CIT(A) as well as AO has erred in not following the judgement passed by Hon'ble Supreme Court in the case of CIT vs. Pranoy Roy wherein Hon'ble Supreme Court upheld that interest u/s. 234A of the Act is compensatory in nature rather than penal and interest u/s. 234 is not leviable if tax is deposited before the due date of filing income tax return.*

2. The brief facts of the case are that the assessee is a Limited Liability Partnership (LLP) providing the consultancy services in the field of business, management, engineering, and other technical areas across the country. The assessee filed its income tax return for the AY 2021-22 declaring total income at Rs. 14,95,45,260/- and tax and interest liability payable thereon Rs. 430,84,414/- which was discharged by way of advance tax of Rs. 1,85,00,000/-, TDS of Rs. 39,81,557/-, TCS of Rs. 41,775/- and self assessment tax of Rs. 2,05,76,040. Consequently, refund of Rs. 1,4958/- was claimed in the income tax return. Assessee deposited interest u/s. 234A for one month i.e. (from the original due date, i.e. 31st October, 2021 till the deposition of taxes i.e. 29.11.2021). However, the AO, CPC computed interest till the date of filing return i.e. 7.3.2022 and imposed the interest of Rs. 7,18,983/- u/s. 234A beyond the date on which self assessment tax including the interest u/s.234A upto the

date is already paid. Against the action of the AO, assessee appealed before the Ld. CIT(A), who vide his impugned order 09.05.2024 dismissed the appeal of the assessee by upholding the action of the AO, CPC on the contention that the assessee had opportunity to remit the self assessment tax before 31st October, 2021 but did not do so and CBDT circulars do not grant the benefit of extension to interest 234A of the Act.

3. Aggrieved with the aforesaid action of the Ld. CIT(A), assessee is in appeal before us.

4. At the time of hearing, Ld. Counsel for the assessee has submitted that Ld. CIT(A) has erred in upholding the actions of AO for imposition of interest amounting to Rs. 7,18,983/- u/s. 234A beyond the date on which self assessment tax including the interest u/s. 234A upto the date is already paid and also wrongly calculating the interest u/s. 234A till the date of filing of income tax return ignoring the fact that interest should be calculated only till the date of deposition of tax in light of relief provided by CBDT circular. It was submitted that the lower authorities have erred in not following the judgement passed by Hon'ble Supreme Court in the case of CIT vs. Pranoy Roy wherein Hon'ble Supreme Court upheld that interest u/s. 234A of the Act is compensatory in nature rather than penal and interest u/s. 234 is not leviable if tax is deposited before the due date of filing income tax return. To buttress his arguments, Ld. AR has filed the following brief submissions:-

- *“The Appellant is a Limited liability partnership providing the consultancy services. For the AY 2021-22 the due date for filing the return of income was 31st October 2021, which was extended to 15th March 2022 vide CBDT Circulars¹.*
- *The Appellant filed its return of income on 7th March 2022 i.e. after the original due date but within the extended due date. The Appellant paid INR 2,05,76,040 i.e. Self- Assessment tax (INR 1,79,78, 300) and interest (INR 25,82633) u/s 234A, 234B & 234C of the Income Tax Act, 1961 (**‘the Act’**), on 29th November 2021.*

¹ By various successive Circulars issued u/s 119 of the Act i.e. Circular No 09/2021 dated 20th May 2021, Circular No 17/2021 dated 9th September 2021 and Circular Nn 01/7077 dated 11th Tan 7077

- *Appellant deposited interest u/s 234A for one month i.e., (from the original due date i.e., 31st October 2021 till the deposition of taxes i.e., 29th November 2021). However, the CPC / Ld. AO computed interest till the date of filing return i.e. 7th March 2022.*
- *Ld. CIT(A) upheld that action of CPC / Ld. AO on the contention that the Appellant had opportunity to remit the self-assessment tax before 31st October 2021 but did not do so and CBDT Circulars do not grant the benefit of extension to interest u/s 234A.*
- *In this regard, we wish place reliance on the landmark decision of Hon'ble Delhi High Court in the case of **Dr. Prannoy Roy Vs CIT [2002] 121 Taxman 314 (Delhi)** as upheld by Hon'ble Supreme Court in the case of **CIT vs Prannoy Roy [2009] 179 Taxman 53 (SC)**. In the aforementioned decisions it has been held that the interest u/s 234A is compensatory and not penal in nature and interest is payable where tax has not been deposited prior to due date of filing the ITR.*
- *Further, we wish to place reliance upon the decision of Hon'ble Pune IT AT in the case of **Milind Madhav Padhye vv. DCIT [2023] 148 taxmann.com 151 (Pune - Trib.)**. In this, following the aforementioned decision of Hon'ble Supreme Court, Hon'ble IT AT held that irrespective of date of filing of ITR, interest u/s 234A of the Act, shall accrue on the balance of taxes outstanding from the first date immediately following the due date and shall cease to accrue on the date of payment by instalment /when paid in parts) or on the date of full discharge of entire tax liability computed on the total income.*
- *Further, we wish to place reliance upon another decision of Hon'ble Supreme Court in the case of **Hindustan Aeronautics Ltd. v. Commissioner of Income Tax [2000] 110 Taxman 311 (SC)** wherein it has been held that Circular or instructions issued by CBDT cannot prevail over a judgement of Hon'ble ' Court or Hon'ble Supreme Court.*
- *In view of above judgements, we request Hon'ble IT AT to allow the present appeal.”*

5. Per contra, Ld. DR submitted relied upon the order of the Ld. CIT(A).

6. We have carefully considered the submissions and perused the records.

We note that assessee deposited interest u/s 234A for one month i.e., (from the original due date i.e., 31st October 2021 till the deposition of taxes i.e., 29th

November 2021). However, the CPC / Ld. AO computed interest till the date of filing return i.e. 7th March 2022 and Ld. CIT(A) upheld that action of CPC / Ld. AO on the contention that the assessee had opportunity to remit the self-assessment tax before 31st October 2021 but did not do so and CBDT Circulars do not grant the benefit of extension to interest u/s 234A. We find considerable cogency in the contention of the Ld. AR that the decision of Hon'ble Delhi High Court in the case of Dr. Prannoy Roy Vs CIT [2002] 121 Taxman 314 (Delhi) which was upheld by Hon'ble Supreme Court in the case of CIT vs Prannoy Roy [2009] 179 Taxman 53 (SC), fully supports the case of the assessee, wherein, it has been held that the interest u/s 234A is compensatory and not penal in nature and interest is payable where tax has not been deposited prior to due date of filing the Income tax return. We further find force in the arguments of the Ld. AR that ITAT, Pune in the case of Milind Madhav Padhye vv. DCIT [2023] 148 taxmann.com 151 (Pune - Trib.), by following the aforementioned decision of Hon'ble Supreme Court, also applicable in the case of the assessee wherein, it has been held that irrespective of date of filing of ITR, interest u/s 234A of the Act, shall accrue on the balance of taxes outstanding from the first date immediately following the due date and shall cease to accrue on the date of payment by installment /when paid in parts) or on the date of full discharge of entire tax liability computed on the total income.

6.1 In the background of the aforesaid discussions and respectfully following the binding precedents, the orders of the authorities below are set aside and the grounds raised by the assessee are allowed.

7. In the result, the Appeal filed by the Assessee stands allowed in the aforesaid manner.

Order pronounced on 20/11/2024.

Sd/-

(VIMAL KUMAR)
JUDICIAL MEMBER

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRBHATNAGAR

Copy forwarded to:-

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

Assistant Registrar