

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.241/Chny/2024
निर्धारण वर्ष/Assessment Year: 2019-20

M/s. IDFC Financial Holdings- Co. Ltd., 4 th Floor, Capitale Tower, 555, Anna Salai, Thiru Vi Ka Kudiyruppu, Teynampet, Chennai-600 018. [PAN: AADCI 6586 K]	v.	The DCIT, Corporate Circle-2(2), Chennai.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.Ketan K. Ved, CA
प्रत्यर्थी की ओर से /Respondent by	:	Ms.R. Anita, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	24.09.2024
घोषणाकीतारीख /Date of Pronouncement	:	04.12.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee company against the order of the Learned Commissioner of Income Tax (Appeal)/Addl./JCIT (A) (hereinafter in short "theLd.CIT(A)"), Mysore, dated 04.12.2023 for the Assessment Year (hereinafter in short "AY") 2019-20.

2. The main grievance of the assessee is against the action of the Ld.CIT(A) confirming the interest of Rs.1,18,52,988/- u/s.234C of the Income Tax Act, 1961 (hereinafter in short "the Act ") without



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appreciating that the book profit includes Capital Gain income arose in the 4th quarter. Therefore, according to assessee, the liability to pay advance tax arise only on 31.03.2019 and the First Appellate Authority erroneously endorsed the action of CPC.

3. The brief facts are that the assessee IDFC Financial Holding Company Limited is a public company, incorporated in India. The assessee is a wholly owned subsidiary of IDFC Limited. The assessee e-filed its return of income (RoI) on 24th October 2019 declaring total income at Rs.58,23,49,060/- as per normal provisions and deemed total income of Rs.142,31,14,669/- as per section 115JB of the Act and claimed refund of Rs.46,860/-. The assessee paid taxes as per the provisions of section 115JB of the Act since it was higher than taxes payable as per the normal provisions. The RoI was processed by CPC under section 143(1) of the Act (Intimation) and the CPC enhanced the interest u/s.234C of the Act to the tune of Rs.1,48,04,175/- whereas assessee computed the interest u/s.234C of the Act at Rs.29,51,188/-. Such a demand has been determined on account of levy of interest u/s.234C of the Act in respect of advance tax payable on transaction pertaining to capital gains on sale of investment. In this regard, the Ld.AR pointed out that the book profit for MAT to the tune of Rs.1,42,31,14,669/- (includes capital gains on sale of investments of Rs.1.40 Crs) and which event arose in the 4th quarter only i.e.



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28.03.2019. Accordingly, assessee asserted that it rightly computed and paid advance tax on 31.03.2019 for the capital gains arising on 28.03.2019. However, the intimation u/s.143(1) of the Act from CPC accepted all the calculations of income returned and other figures shown in the Return of Income were accepted by the CPC except interest u/s.234C of the Act was enhanced from Rs.29,51,188/- to Rs.1,48,04,175/-. According to the assessee, the CPC erred in computing the interest u/s.234C of the Act which arose in the 4th quarter only by including capital gains amount as part of the total income for all the quarters as under:

Working of interest by CPC under section 234C

Total Tax Liability	Advance Tax (%)	Advance tax due	Advance tax paid	Shortfall	Interest u/s.234C
29,74,49,012	15	4,46,17,352	5,00,000	4,41,17,352	13,23,521
29,74,49,012	45	13,38,52,055	19,00,000	13,19,52,055	39,58,562
29,74,49,012	75	22,30,86,759	32,00,000	21,98,86,759	65,96,603
29,74,49,012	100	29,74,49,012	49,00,000	29,25,49,012	29,25,490
Total					1,48,04,175

4. However, as per the assessee, since the capital gains arose only on 28.03,2019, it correctly worked out the interest u/s.234C of the Act at Rs.29,51,188/- as under:

Working of interest by the assessee under section 234C

Total Tax Liability	Advance Tax (%)	Advance tax due	Advance tax paid	Shortfall	Interest u/s.234C
47,82,674	1	7,17,401	5,00,000	2,17,401	6,522
47,82,674	45	21,52,203	19,00,000	2,52,203	7,566
47,82,674	75	35,87,005	32,00,000	3,87,005	11,610
29,74,49,013	100	29,74,49,013	49,00,000	29,25,49,013	29,25,490
Total					29,51,188



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5. The Ld.CIT(A) also confirmed the action of the CPC. Therefore, the assessee is in appeal before us.

6. We have heard both the parties and perused the material available on record. The facts stated supra are not repeated for the sake of brevity. The only issue is regarding calculation of interest u/s.234C of the Act in the facts of the case and book profit includes Capital Gains of Rs.1.40 Crs. which arose in the 4th quarter i.e only on 28.03.2019 and accordingly, the assessee has paid advance tax on 31.03.2018 for the capital gains which arose on 28.03.2019 by paying 1% advance tax. We note that similar issue had come up before this Tribunal in the case of M/s.Hamilton Industries Pvt. Ltd., in ITA No.218/Mum/2022 for AY 2018-19 dated 10.08.2022, wherein, the facts as noted by the Tribunal are as under:

2. Brief facts of the case are that the assessee filed its return of income on 24-09-2018 u/s 139(1). There after assessee received an intimation u/s 143(1)(a) dated 15-05-2019. Assessee declared total income of Rs 10, 66, 15,871/- under the normal provisions and Rs 13, 95, 37,529/- under the provisions of MAT. Accordingly, the appellant company had paid taxes with interest under MAT provisions of Rs 2,97,79,541/-.

3. The above said book profit includes capital gain of Rs 17,77,44,323/- which arose in 4th quarter only i.e., on 28-02-2018 and 28-03-2018. Accordingly, assessee paid advance tax on 15-03-2018 and 31-03-2018 for the capital gains arose on 28-02-2018 and 28-03-2018 respectively. Subsequently an intimation u/s 143(1) received as mentioned (supra.) wherein all the calculations of tax payable, interest, figures of income returned and other figures embodied in the return were accepted by the CPC Bangalore. Except, interest u/s 234C was enhanced by Rs 12, 31,304/- by CPC, Bangalore.



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7. And the Tribunal has decided the appeal by accepting the grounds raised by the assessee and deleting the interest charged by the CPC by holding as under:

6. For sake of clarity and proper appreciation of the issue involved we are reproducing herein below the provisions of Section 234C:

"Interest for deferment of advance tax.

234C. (1) [Where in any financial year, —

[(a) an assessee, other than [the assessee referred to in clause (b)], who is liable to pay advance tax under section 208 has failed to pay such tax or—

(i) the advance tax paid by such assessee on its current income on or before the 15th day of June is less than fifteen per cent of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of September is less than forty-five per cent of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than seventy-five per cent of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent per month for a period of three months on the amount of the shortfall from fifteen per cent or forty-five per cent or seventy-five per cent, as the case may be, of the tax due on the returned income;

(ii) the advance tax paid by the assessee on the current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent on the amount of the shortfall from the tax due on the returned income:

Provided that if the advance tax paid by the assessee on the current income, on or before the 15th day of June or the 15th day of September, is not less than twelve per cent or, as the case may be, thirty-six per cent of the tax due on the returned income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates;]

(b) [an assessee who declares profits and gains in accordance with the provisions of subsection (1) of section 44AD or sub-section (1) of section 44ADA, as the case may be], who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent on the amount of the shortfall from the tax due on the returned income:]]



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[Provided that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of underestimate or failure to estimate—

- (a) the amount of capital gains; or
- (b) income of the nature referred to in sub-clause (ix) of clause (24) of section 2; [or]
- [(c) income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the [first time; or]]
- [(d) the amount of dividend income,] and the assessee has paid the whole of the amount of tax payable in respect of income referred to in clause (a) or clause (b) [or clause (c) [or clause (d)]], as the case may be, had such income been a part of the total income, as part of the [remaining instalments of advance tax which are due or where no such instalments are due], by the 31st day of March of the financial year:]

[Provided further that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of increase in the rate of surcharge under section 2 of the Finance Act, 2000 (10 of 2000), as amended by the Taxation Laws (Amendment) Act, 2000 (1 of 2001), and the assessee has paid the amount of shortfall, on or before the 15th day of March, 2001 in respect of the instalment of advance tax due on the 15th day of June, 2000, the 15th day of September, 2000 and the 15th day of December, 2000 :]

[Provided also that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of increase in the rate of surcharge under section 2 of the Finance Act, 2000 (10 of 2000) as amended by the Taxation Laws (Amendment) Act, 2001 (4 of 2001) and the assessee has paid the amount of shortfall on or before the 15th day of March, 2001 in respect of the instalment of advance tax due on the 15th day of June, 2000, the 15th day of September, 2000 and 15th day of December, 2000.]

[Explanation 1]. —In this section, "tax due on the returned income" means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st day of April immediately following the financial year in which the advance tax is paid or payable, as reduced by the amount of, —

- (i) any tax deductible or collectible at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;

[(ia) any relief of tax allowed under section 89;]



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- (ii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;
- (iii) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;
- (iv) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and
- (v) any tax credit allowed to be set off in accordance with the provisions of section 115JAA [or section 115JD].]

[Explanation 2.—For the purposes of this sub-section, the term "dividend" shall have the meaning assigned to it in clause (22) of section 2, but shall not include sub-clause (e) thereof.]

(2) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]]”

7. Second proviso to section 234C clearly deals with the situation of assessee. As there is no challenge to the fact that assessee was prompt and regular in calculation and payment of advance tax u/s 234A, 234B and 234C. This fact is also not under challenge that to unanticipated transactions under the head capital gains arose in the case of assessee 28-03-2019. Assessee promptly discharged his liability of advance tax u/s 234C on 31-03-2019. We have considered the order of Ld. CIT (A) wherein he relied on circular no 13/201-Income Tax, dated 09-11-2001, issued by the CBDT and the decision of hon'ble Supreme Court in the case of CIT Vs Rolta India Ltd. Vide CIVIL APPEAL NO. 1350F 2011 has upheld the levy of interest u/s 234B and 234C. in a case of assessee being a company on the basis of book profit u/s 115JB. An identical issue had been considered by the hon'ble Bombay High Court in the case of JCIT Vs Summit Industries Ltd (Supra.) and decided in the favour of the revenue. Similarly, hon'ble Karnataka High Court in the case of Kwality Biscuits Ltd Vs CIT 243 ITR 519 and hon'ble ITAT Jaipur bench in the case of M/s GIE Jewels (ITA No. 794/JP/2017), decided in the favour of charging interest u/s 234C of the Act.

8. We have analysed circular no.13, cases decided in favour of revenue (supra.) and relied upon by the Ld. CIT (A). This circular and the case laws relied upon by the Ld. CIT (A) are distinguishable with the facts of the present appeal. This circular and the case laws relied upon deal with the applicability of sec 234C in the case of companies declaring income u/s 115JA/115JB. These case laws are not discussing the eventuality which may arise as provided in second proviso clause (a) i.e., the capital gains.

9. It is an established law that provisions of sec 234C is applicable in the case of Income chargeable to tax u/s 115JA/115JB but i.e. subject to the proviso provided in sec.234C.

10. We found force in the contentions of the assessee and we further relied on the following pronouncement of various hon'ble High Courts and co-ordinate benches of ITAT as under:



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"Kumari Kumar Advani vs. ACIT (CPC) in [IT Appeal No. 7661 (MUM) of 2013 dated 13.07.16]

Express Newspapers Ltd v. Jt. CIT [2007] 15 SOT 41

Mahendra U. Shah v. ACIT [IT Appeal No. 3048 (MUM) of 2003

Hindustan International v. ITO (2010) 96 ITR 123 (Chnd)

[2003] 264 ITR 744 (Rajasthan) Commissioner of Income-tax v. Smt. Premlata Jalan

Section 234C of the Income-tax Act, 1961 – Interest chargeable – Assessment year 2000-01 – Whether liability to pay tax by way of advance tax in respect of transaction resulting in capital gains arises only after transaction has taken place or event has occurred - Held, yes – Whether where interest is chargeable on delayed or deferred payment of advance tax, it shall be payable only with effect from date when liability to pay advance tax in respect thereof has been incurred – Held yes - Advance tax was payable by assessee on capital gains earned by her after 15-3-2000 when date of payment of last installment of advance tax had already expired - Assessee paid interest under section 234C for period of one month, until said liability was discharged in April 2000 - Assessing Officer held that assessee was liable to pay interest for entire period to extent there was short fall in payment of advance tax calculated as per income returned by assessee including capital gains from 15-9-1999, when first instalment of advance tax became due - Tribunal, however, held that Assessing Officer was not justified in charging interest for period prior to date when liability to tax arose - Whether order of Tribunal was justified - Held, yes

[2010] 127 ITD 257 (MUM.) Torrential Investments (P.) Ltd. * v. Income-tax Officer, Ward2(3)(3), Mumbai

Section 234C of the Income-tax Act, 1961 - Interest, chargeable as - Assessment year 1996-97 - Capital gains accrued to assessee on account of sale of an asset in months of May 1995 and July 1995 - It filed its return for assessment year 1996-97 showing long-term capital gains - Assessee had paid advance tax in instalments after date of sale of assets in view of amendment to proviso to section 234C by Finance (No. 2) Act, 1996 with effect from 1-4-1997 - Revenue authorities held that capital gains in instant case had accrued in months of May, 1995 and July, 1995 and assessment year in question being assessment year 1996-97, amended provision was not applicable as it came into effect from assessment year 1997-98 - Whether amendment to proviso to section 234C by Finance (No. 2) Act, 1997, with effect from 1-4-1997 is clarificatory in nature and same is to be applied retrospectively - Held, yes - Whether since assessee had paid taxes as part of instalments due after date of sale of asset in accordance with amended provisions of section 234C, as such, there was no default on assessee's part and, thus, no interest was chargeable from it - Held, yes

[2011] 12 taxmann.com 64 (Calcutta) Emami Ltd. v. Commissioner of Income-tax, Central I, Kolkata



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Interest, chargeable as - Assessment year 2001-02 - Whether in order to hold an assessee liable for payment of advance tax, liability to pay such tax must exist on last date of payment of advance tax as provided under Act or at least on last date of financial year preceding assessment year in question - Held, yes - Whether if such liability arises subsequently when last date of payment of advance tax or even last date of financial year preceding assessment year is over, it is inappropriate to suggest that still assessee had liability to pay 'advance tax' within meaning of Act - Held, yes - Whether, therefore, where assessee had no liability to pay any advance tax under section 208 on any of due dates for payment of advance tax instalments and it became liable to pay tax by virtue of a retrospective amendment made long after close of financial year, assessee could not be branded as a defaulter in payment of advance tax and no interest could be imposed upon it under sections 234B and 234C - Held- Yes."

11. Then provisions of S. 234C (1) regarding payment of interest shall not apply to any shortfall in the payment of the advance tax due on the returned income. However, this is subject to condition that the assessee has paid the whole of the amount of tax payable in respect of his total income (including windfall gains, if any), as part of the remaining instalments of advance tax which are due (after accrual of windfall gain) or where no such instalments are due, i.e., in cases of windfall gain accruing after 15th of March of financial year, by the 31st day of March of the financial year. Therefore, when it is not possible for the assessee to estimate accrual or receipt of such income at any time when the payment of first, second, third or fourth instalment of advance tax, as the case may be, is due, the assessee is not liable to pay advance tax on the respective due dates in respect of such windfall gain.

12. If on a particular due date for payment of advance tax, the facts show that there is no liability to pay advance tax, non-payment of advance tax on the due date may not be considered sufficient to attract interest u/s 234C. If the returned income is higher due to unexpected income received subsequent to earlier due dates, the shortfall in payment of advance tax installment in earlier date may not attract interest. As far as income under the head business/profession is concerned, interest under section 234C of the Act shall not be chargeable on default in payment of advance tax in respect of such income only in the first year of business/profession. For income in the nature of windfall gain/unexpected income under other heads of income, provisions of S. 234C (1) shall not apply to any shortfall in the payment of the advance tax due on such income if the same is of the nature which can't be foreseen by the assessee so as to enable him to estimate such income for the purpose of payment of advance tax. However, the above relaxation in payment of advance tax installments is subject to condition that the assessee has paid the whole of the amount of tax payable in respect of his total income (including windfall gains, if any), as part of the remaining installments of advance tax which are due (after accrual of windfall gain) or where no such installments are due, i.e., in cases of windfall gain accruing after 15th of March of financial year, by the 31st day of March of the financial year.

13. In the light of discussion above, considering the facts of the case and pronouncements of various authorities, we delete the interest charged



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amounting to Rs. 12, 31,304/- u/s. 234C and allowed the ground of appeal raised by the appellant.

14. In the result, appeal filed by the assessee is allowed.

8. There is no dispute that provisions of sec 234C is applicable in the case of book-profit/income chargeable to tax u/s 115JA/115JB of the Act; and in this case, the question raised will be answered on a reading of second proviso to section 234C of the Act. Further, we note that there is no challenge to the fact that assessee promptly computed and paid Advance tax u/s 234A, 234B and 234C of the Act. But due to unanticipated transactions under the head *capital gains* arose in the case of assessee on 28-03-2019, this issue has arisen. According to the assessee, it promptly discharged its liability of advance tax u/s 234C on 31-03-2019. In such an event, we are of the view that liability to pay tax by way of advance tax in respect of transaction resulting in capital gains arises only after transaction has taken place or event has occurred. And assessee has discharged its liability of Advance Tax u/s.234C on 31.03.2019 (refer Chart below Para No.4 supra). And since, it is not the case of the Department that assessee has not paid the whole of the amount of tax payable in respect of its total income (including capital gains, if any), as part of the remaining installments of advance tax which are due (after accrual of capital gain) or where no such installments are due, i.e., in cases of capital gain accruing after 15th of March of financial year, by the 31st day of March of the financial year, no addition of interest



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u/s 234C was required in this case. In the light of the discussion, we respectfully following the decision of the Tribunal in the identical case supra, direct the deletion of the interest of Rs.1,18,52,988/- (i.e. Rs.1,48,04,175 – 29,51,188).

9. The next ground regarding interest u/s.234B of the Act, is consequential and doesn't require any adjudication, so dismissed.

10. In the result, appeal filed by the assessee is partly allowed.

Order pronounced on the 04th day of December, 2024, in Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 04th December, 2024.

TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित /**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF