

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F", MUMBAI

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.3558 /Mum/2025  
(Assessment Year: 2022-23)**

**AND**

**S.A.No.70/Mum/2025  
(Arising out of ITA No.3558 /Mum/2025  
(Assessment Year: 2022-23)**

<b>Sudhir Appukuttan Panikassery,</b> Flat No.103 & 104, Tower A1, Godrej Riverside, Godrej Hill, Kalyan West, Kalyan-421 301 <b>PAN: AFFPP2294F</b>	<b>vs</b>	<b>Income-tax Officer, Circle-3, Kalyan</b> PNE-W-93, Range Code-75, Rani Mansion, 2 <sup>nd</sup> Floor, Murbad Road, Kalyan.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Parag Vyas  
Respondent by : Ms. Kavitha Kaushik (SR DR)

Date of hearing : 01/09/2025  
Date of pronouncement : 03/09/2025

**ORDER**

**Per Anikesh Banerjee (JM):**

The instant appeal of the assessee filed against the order of the Learned Commissioner of Income Tax Appeal / Addl. / JCIT(A)-3, Hyderabad [for brevity, 'Ld. CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in shot, 'the Act) for

the Assessment Year 2022-23, date of order 01/04/2025. The impugned order emanated from the order of the CPC, Bengaluru, (hereafter, 'Ld.AO') passed under section 143(1) of the Act, date of order 11/12/2024.

2. The assessee has taken the following grounds of appeal: -

*"1. The Id. JCIT(A) erred in confirming the order of the Assessing Officer in considering 31st January 2024 as the date of filing of the updated returns instead of 30th April 2023.*

*2. The id JCIT(A) erred in confirming the action of the Assessing Officer in not considering the payment of tax of Ms.1,79,14,730/- paid from 27th to 30th April 2023 as self-assessment tax already paid for the purpose of levying interest under section 234B of the Act and consequently charging interest under section 234B up to December-2024.*

*3. Rs.1,79,14,730/- paid on or before filing of return should be considered as payment of self-assessment tax and not payment of taxes U/s 140A.*

*4. The JCIT(A) failed to appreciate that in absence of fraud or willful attempt to evade tax, levy of 25% additional tax is not justified more so considering that penalty u/s 234F has already been paid*

*5. The Appellant craves leave to add to alter or amend all or any of the above grounds of appeal."*

3. The brief facts of the case are that the assessee is an individual and has not filed the return of income for A.Y. 2022-23 as per provisions of section 139(1) and 139(4) of the Act. The assessee filed updated return of income as per provisions of section 139(8A) of the Act for the impugned assessment year on dated 30/04/2023 declaring a total income of Rs.7,89,80,550/-. The assessee has filed another updated return on dated 31/01/2024. The said updated return was processed by the Ld.AO under section 143(1) and intimation dated 11/12/2024 computing the total income as returned. However, in the intimation issued additional interest was

charged and full credit of TDS claimed as well as self-assessment tax was not given. The assessee claimed that the assessee paid the tax amounting to Rs.50 lakhs as self-assessment tax under section 140A of the Act, advance-tax, TDS, TCS, but related to payment of tax from 27/04/2023 to 30/04/2023 amount to Rs.1,79,14,730/-, the assessee treated it as self-assessment tax under section 140A whereas the Ld.AO treated it as tax payment u/s 140B(4) of the Act. Accordingly, the interest u/s 234B of the Act shall be computed based on the assessed tax, i.e. tax on total income as declared in return furnished u/s 139(8A) of the Act after taking into account the advance-tax paid, TDS, TCS, any relief u/s 89 / 90 / 91 / 90A and any tax credit claimed to be set off u/s 115JAA and 115 JD. The aggrieved assessee filed an appeal before the Ld.CIT(A) by challenging that the Ld.AO treated the tax payment of Rs.1,79,14,730/- during the period from 27/04/2023 to 30/04/2023, payment as per provisions u/s 140B(4) of the Act and further the grievance for the assessee was that after the payment of such tax, the calculation of interest u/s 234B was levied beyond the period, from payment of tax to processing of return u/s 143(1) dated 11/12/2024. But the Ld.CIT(A) upheld the order of the Ld.AO. Being aggrieved, assessee filed an appeal before us.

4. The Ld.AR filed a paper book containing pages 1 to 233, which is kept on record and respectfully relied on the orders of Hon'ble Supreme Court and High Court in the case of –

- (1) CIT vs Pranoy Roy – 309 ITR 231 (SC);
- (2) CIT vs Bangalore Animal Food Corporation Ltd 194 ITR 242 (Kar)
- (3) Order of Hon'ble Supreme Court in Bahi Jaspal Singh & Another vs ACIT (2011) 1 SCC 39

5. The Ld.DR argued and stands in favour of the order of revenue authorities.
6. We have heard the rival submissions and carefully perused the documents available on record. On examination, we find that the assessee has furnished a computation in relation to the return filed under Section 139(8A) of the Act, as detailed below:

Sr.No.	Particulars	Amount as per intimation u/s 143(1)	Amount as per rectified return filed on 31/01/2024
1	Total Income	7,89,80,554	7,89,80,554
2	Total tax payable (including surcharge & cess)	3,12,07,273	3,12,07,273
3	Interest payable	72,68,240	52,94,763
4	Total tax payable	3,84,75,513	3,65,02,036
5	<b><u>Taxes paid</u></b>		
	Advance tax	60,00,000	60,00,000
	T.D.S.	55,18,776	62,87,167
	T.C.S.	1,479	1,479
	Self-assessment taxes	<u>50,00,000</u>	<u>2,29,14,730</u>
		<b><u>1,65,20,255</u></b>	<b><u>3,52,03,376</u></b>
6	Amount payable	2,19,55,258	12,98,660
7	Additional income-tax liability on updated income (25%)	54,87,564	3,23,415
8	Amount payable	2,74,42,822	16,22,075
9	Taxes paid u/s 140B	1,79,14,730	16,22,075
10	<b>Tax due</b>	<b>79,06,020</b>	<b>0</b>

In the present case, the assessee has treated the tax payment and interest of Rs.1,79,14,730/- as self-assessment tax under Section 140A of the Act, and accordingly claimed that the additional income-tax liability at the rate of 25% on the updated return stands reduced. As per the assessee, the additional income-tax liability in the rectified return works out to Rs.3,23,415/-, whereas the same was computed under Section 143(1) at Rs.54,87,564/-.

The Ld. AR, in the course of arguments, contended that the said interest is compensatory in nature and placed reliance upon various judgments of the Hon'ble Apex Court, which, according to him, are applicable to the facts of the assessee's case. However, we find that Section 139(8A) was introduced by the Finance Act, 2022 with effect from 01.04.2022, along with the insertion of Section 140B of the Act. Therefore, all the judgments cited by the assessee pertain to the period prior to the aforesaid amendment and, thus, are factually distinguishable.

The Learned CIT(A) has examined this issue in detail, and the relevant paragraphs of the impugned appellate order are reproduced hereunder:

*"5.4.7 From the above "Computation of tax liability on total income" it can be seen that after the appellant has worked out "Aggregate liability" at Rs. 3,52,03,377/- in the taxes paid the appellant has claimed payment of advance tax of Rs.60,00,000/-, TDS of Rs.62,87,167/- and TCS of Rs.1,479/-. Further, the appellant has claimed payment of self-assessment tax of Rs.2,29,14,730/- which constituted of Rs.30,00,000/- paid on 15/09/2022, Rs. 20,00,000/- paid on 16/09/2022 and an amount of Rs. 1,79,14,730/- paid from 27/04/2023 to 30/04/2023. The appellant was clearly aware that the payment of taxes of Rs. 1.79,14,730/- from 27/04/2023 to 30/04/2023 is nothing but the tax payable/paid worked out on the basis of the updated return being filed on 30/04/2023 as per provisions of section 140B(1) of the Act.*

*5.4.8 Therefore, the appellant as per provisions of section 140B of the Act was required to work out the "Amount Payable at Sr.No.11 in "Part B -TTI Computation of tax liability on total income" at Rs. 1,79,14,730/- after taking into account payment of advance tax of Rs. 60,00,000/-, TDS of Rs.62,87,167/-, TCS of Rs.1.479/- and self-assessment tax (u/s 140A) of Rs.50,00,000/- However, the appellant has taken the taxes paid of Rs. 1,79,14,730/- as per provisions of section 140B(1) of the Act before the date of filing of the defective update return on 30/04/2023 and included the same as self-assessment tax to arrive at the figure of NIL in column 11 "Amount Payable".*

5.4.9 The appellant has purposefully and deceitfully shown the payment of taxes of Rs. 1,79,14,730/- from 27/04/2023 to 30/04/2023 as self-assessment tax in order to defraud the Revenue. The appellant is a Chartered Accountant by profession and therefore is fully cognizant with the fact that in the updated return the amount payable would never be NIL. In fact, the appellant himself has computed and paid taxes of Rs. 1,79,14,730/- from 27/04/2023 to 30/04/2023 before filing updated ROI on 30/04/2023 and thus he was fully aware that the "Amount payable" as per computation in updated ROI filed on 30/04/2023 was required to be shown at Rs. 1,79,14,730/-. It is also interesting to note that the appellant has shown complete ignorance to the oblivious fact that he was required to pay additional tax of 25% of the amount payable as per provisions of section 140B of the Act.

5.4.10 Further, the action of the appellant after receipt of notice/communication u/s 139(9) of the Act clearly demonstrates that the sole intention of the appellant was to mislead the Revenue by resorting to dubious tactics. From the contents of the updated return of income filed on 31/01/2024, it is seen that the appellant has computed the "Total Interest and Fee Payable at a higher figure of Rs. 52,94,763/- instead of Rs. 39,96,104/- (difference of Rs. 12,98,659/-) as shown in ROI filed on 30/04/2023 without any valid basis. The higher total interest and fees payable in ROI filed on 31/01/2024 was computed only in order to arrive at the figure of "Amount Payable in column 11 at Rs. 12,98,660/- after claiming taxes paid of Rs. 3,52,03,376/-. This figure of "Amount payable arrived at Rs. 12,98,660/- was then taken for computation of the additional tax @ 25% of only Rs. 3,23,415/- in Column 10- "Additional income-tax liability on updated income" in "Part B- ATI Computation of total updated income and tax payable of updated ROI filed on 30/01/2024.

5.4.11 From the facts as detailed above with regard to the filing of updated return of income on 30/01/2024 it can be clearly seen that the facts of the appellant case are entirely different from the facts of the case of Prime Securities Ltd. Vs ACIT wherein the judgment of the Hon'ble High Court of Bombay as referred to appellant has been given. Therefore, the ratio of the above decision of Hon'ble High Court of Bombay would not be applicable in the case of the appellant as the facts are entirely different. Further, the most

*important factor to be considered in this case is that the appellant is a qualified profession being a Chartered Accountant and is also being assisted by a firm of Chartered Accountants. Therefore, the action of the appellant in not computing the "Amount Payable and "Additional Income tax liability on updated income" in the updated return of income filed on 30/04/2023 cannot be considered as an inadvertent mistake. In fact, the appellate is seen to have deliberately not computed "Amount Payable" and "Additional Income tax liability on updated income" in updated return filed on 30/04/2023 with a clear intention to defraud the revenue.*

*5.4.12 Further, the intention of the appellant to defraud the revenue is confirmed from the details furnished in the updated return of income filed on 31/01/2024. If appellant had really made an inadvertent mistake in the return filed on 30/04/2023 then in the updated return of income filed on 31/01/2024 he should/ could have shown the correct amount of "Amount Payable at Rs. 1,79,14,730/- and "Additional Income tax liability on updated income @ 25% at Rs. 44,78,682/- as per the provisions of section 140B of the Act. If the appellant has done so then the return of income filed on 31/01/2024 could have been considered as return filed in response to notice u/s 139(9) of the Act though the correct box was not appropriately ticked. However, the appellant in ROI filed on 31/01/2024 has shown "Amount Payable at only Rs.12,98,660/- and computed the additional tax @ 25% of only Rs. 3,23,415/-The guilt of the appellant was therefore established by contents in the updated ROI filed on 31/01/2024. Considering the detail discussion made above, the update ROI filed by appellant on 31/01/2024 cannot be considered as to have cured the defect in the ROI filed on 30/04/2023."*

The Ld. AR contended that interest under Section 234B was levied up to the date of processing of the return under Section 143(1) of the Act, i.e., December 2024, whereas the tax amount had already been paid on or before 30th April 2023, prior to the filing of the updated return. It was, therefore, argued that once the tax liability stood discharged by 30.04.2023, no interest under Section 234B ought to

have been levied beyond that date. In this regard, it was submitted that the CPC had erroneously charged excess interest of Rs.32,60,774/-.

On consideration of the rival contentions, we find merit in the assessee's submission that interest under Section 234B cannot be levied beyond the date on which the tax due was paid, i.e., 30.04.2023. Accordingly, the excess interest so computed by the CPC is liable to be deleted. However, insofar as the determination of the payment of Rs.1,79,14,730/-, which has been treated by the CPC as payment under Section 140B(1) of the Act, we find no infirmity in the findings of the Ld. CIT(A). The observation of the Learned CIT(A) on this issue is, therefore, upheld.

7. Accordingly, the assessee's **grounds 1 & 2** are allowed & **grounds 3 & 4** are dismissed. Ground 5 is general in nature, so no adjudication is required.

8. Since the appeal of the assessee has already been adjudicated as above, the stay application filed by the assessee stands dismissed as having become infructuous.

9. In the result, the appeal of the assessee bearing **ITA No.3558/Mum/2025** is partly allowed. The Stay application **SA 70/Mum/2025** is infructuous as dismissed.

Order pronounced in the open court on 03<sup>rd</sup> day of September 2025.

Sd/-

(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 03/09/2025  
Pavanan

sd/-

(ANIKESH BANERJEE)  
JUDICIAL 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,  
JODHPUR
5. गार्ड फाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI