

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"E" BENCH, MUMBAI  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER  
ITA No. 4628/MUM/2025 (AY: 2015-16)  
ITA No. 4629/MUM/2025 (AY: 2016-17)  
ITA No. 4630/MUM/2025 (AY: 2018-19)  
ITA No. 4631/MUM/2025 (AY: 2020-21)  
ITA No. 4632/MUM/2025 (AY: 2020-21)  
ITA No. 4633/MUM/2025 (AY: 2021-22)  
(Physical hearing)**

Kotak Mahindra Bank Limited 27 BKC, Bandra Kurla Complex, G- Block, Bandra East, Mumbai – 400051. [PAN: AAACK4409J]	Vs	DCIT – 2(3)(1), Mumbai Room No. 552, Ayakar Bhawan, M.K. Road, Mumbai-20
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Madhur Agrawal, Advocate
Revenue by	Shri Hemanshu Joshi, Sr. DR
Date of Institution	21.07.2025
Date of hearing	03.09.2025
Date of pronouncement	03.09.2025

**Order under section 254(1) of Income Tax Act**

**PER BENCH:**

1. These six appeals by assessee are directed against the separate but similar order of Id. CIT(A) for A.Y. 2015-16, 2016-17, 2018-19, 2020-21 & 2021-22. In all years, the assessee has raised almost similar grounds of appeal except variation. With the consent of parties of appeals are clubbed, heard together and are decided by common order to avoid the conflicting decision. With the consent of appeal for A.Y. 2015-16 is treated as lead case. The assessee has raised following grounds of appeal:

**"Ground No. 1-Dismissal of appeal as not maintainable under section 246A**

*1. The Commissioner of Income Tax (A) - National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "the CIT(A)") erred in dismissing the appeal by treating the same as infructuous and non-est without considering it on merit on the ground that appeal against the order giving effect to the order of the Hon'ble CIT(A) does not lie u/s 246A of the Income-tax Act, 1961 (Act').*

*2. He failed to appreciate and ought to have held that:*

*a. the Appeal is clearly maintainable u/s 246A of the Act.*

*b. the order giving effect to the Hon'ble CIT(A)'s order is an order u/s. 147 read with section 254 for which appeal is clearly maintainable u/s 246A(1)(b) of the Act.*

*c. the Appeal by the appellant aggrieved by an order of reassessment made under section 147, either originally or in consequences of appellate order with a view to giving effect to the direction contained therein, objecting to the amount of interest payable by the government u/s 244A to the appellant as determined by the Assessing officer is therefore, maintainable u/s. 246A(1)(b) of the Act.*

*d. the appeal would lie; as the appellant was aggrieved against the amount of refund determined which included the amount of interest not duly paid on the refund.*

*e. grant of refund and interest under section 244A is a part and process of assessment and any grievance arising there from can be agitated by the assessee by way of appeal, which is his statutory right.*

*f. the order giving effect to CIT(A)'s order is refund order u/s. 237 for which appeal clearly maintainable u/s. 246A(1)(i) of the Act.*

*g. an appeal is merely the continuation of the original proceedings and the CIT(A) has plenary powers which are conterminous with that of the Assessing Officer in disposing of an appeal on merits.*

**Ground No. 2-No opportunity of being heard given**

*1. The CIT(A) erred in passing an order without giving a reasonable and sufficient opportunity of being heard before passing the order u/s. 250 of the Act.*

2. *The order passed by CIT(A) is bad in law and without jurisdiction as it has been passed in violation of the principles of natural justice i.e. reasonable and sufficient opportunity of being heard was not granted to the appellant through video conferencing.*

3. *The CIT(A), NFAC has erred in not granting an opportunity to the appellant bank to present the case through the video conferencing as specified under the Faceless Appeals Scheme 2021, provided under section 250(6B) of the Act.*

4. *The impugned order is an ex-parte and non-speaking order, passed without considering the facts, merits, or arguments of the appellant, and hence is arbitrary, unjust, and liable to be quashed.*

**Ground No. 3- Interest under section 244A(1)(b) of the Act**

1. *The CIT(A) erred in not granting interest u/s 244A on refund of Rs. 7,37,94,900/- for the period from the regular assessment u/s 143(3) i.e. 29-12-2017 till actual grant of refund amount.*

2. *The CIT(A) erred in invoking proviso to 244A(1)(a) to deny the Appellant interest u/s 244A of the Act.*

3. *The CIT(A) failed to appreciate that once excess advance tax and TDS are adjusted with tax liability arising out of order passed u/s 143(1) or 143(3), it loses the character of advance tax and TDS and becomes tax paid on regular assessment and thus, the proviso to section 244A(1)(a) is not applicable and interest is payable within the meaning of section 244A(1)(b) of the Act.*

4. *The CIT(A) failed to appreciate that the computation of interest on regular tax assessment has to be in terms of Section 244A(1)(b), i.e. from the date of payment of such amount upto the date on which the refund is actually granted.*

5. *He failed to appreciate and ought to have held that:*

a. *A sum of Rs. 4,40,96,577/- has become refundable to the appellant order giving effect to Ld. CIT(A) order under section 250 r.w.s. 147 dated 10-02-2025 and the said refund is entitled to interest under section 244A(1)(b).*

b. *Proviso to section 244A(1)(a) is not applicable to the refund arising to the appellant and appellant is entitled to interest as per section 244A(1)(b).*

*c. Once excess advance tax and TDS is adjusted with tax liability arising out of regular assessment, it loses the character of advance tax and TDS and becomes tax paid on regular demand. Hence, the proviso to section 244A(1)(a) is not applicable and interest is payable within the meaning of section 244A(1)(b).*

*d. The refund arising on account of order of Appellant is also squarely covered by the expression "Where refund of any amount becomes due to the assessee under this Act", as appearing in section 244A(1) and hence entitled to interest under said provision.*

*e. Moment the adjustment of self-assessment/prepaid taxes is made towards tax liability created under regular assessment, it takes the shape of payment of tax in pursuance of order of assessment.*

*f. The amount loses its character of self-assessment tax/prepaid taxes and becomes income-tax paid in respect of income of relevant year, it is only on the date the assessment is made that the deeming fiction contained under s. 140A(2) comes into play.*

*g. Therefore, Appellant is entitled to interest under section 244A from the date of assessment order to the date of granting refund of excess payments made by way of TDS/Advance tax.*

*h. Refund due and payable to the assessee is debt-owed and payable by the Revenue and the State having received the money without right, and having retained and used it, is bound to make the party good.*

*i. The obligation to refund money received and retained without right implies and carries with it the right to interest.*

*j. The assessee is entitled to refund, there is a statutory liability on the revenue to pay interest on such refund on general principles to pay interest on sums wrongfully retained.*

*6. Without prejudice to the above, interest is compensation for money lying with the Department and as these amounts were with the Department, interest ought to have been granted.*

**Ground No. 4- Interest under section 244A(1)(b) of the Act**

*1. The CIT(A) erred in not granting interest on refund of Rs.4,40,96,577 from the date on which the order giving effect to the CIT(A) order was passed i.e. 10th February, 2025 determining the*

*refund till the date on which the actual refund was credited to the appellant's bank account.*

**Ground No. 5-Short-granting of interest u/s 244A(1) for 1 month**

*1. The CIT(A) erred in short granting of interest on refund under section 244A, short by one (1) month resulting in a reduced refund to the Appellant.*

*2. The CIT(A) failed to appreciate that the interest under section 244A is to be calculated from the date of payment of tax or adjustment till the date of actual credit to the Appellant's Bank account.*

**Ground No. 6 Incorrect Appropriation of Refund already granted for computation of interest under section 244A**

*1. The CIT(A) erred in not adjusting the total refund, first towards the interest component under section 244A(1) and the balance towards the principal tax component.*

*2. The CIT(A) erred in incorrectly prioritising principal adjustment over interest components, leading to short grant of Interest.*

*3. The CIT(A) failed to appreciate and ought to have held that:*

*a. for calculating interest u/s 244A(1), the refund earlier granted should be adjusted against interest component and balance if any, should be adjusted against principal refund amount.*

*b. while adjusting refund granted earlier, when the part refund is granted to the assessee, it should be first adjusted towards the interest due and then against the tax payable.*

*4. The AO be directed to adjust the refund granted earlier towards interest component first and then against principal refund amount.*

**Ground No. 7-Additional Interest u/s 244A(1A) of the Income Tax Act**

*1. The CIT(A) erred in not granting additional interest u/s 244A(1A) on the refund amount, despite the fact that the order giving effect to the Ld. CIT(A) decision was passed beyond the prescribed time limit under section 153(5) of the Act.*

*2. He failed to appreciate and ought to have held that the Appellant is eligible for interest under section 244A(1A) of the Act.*

*3. The Appellant prays that the AO be directed to grant further additional interest under section 244A(1A) on refund for the period beginning from the date following the date of expiry of the time allowed under section 153(5) to the date of actual receipt of refund.*

*4. The Appellant prays that the AO be directed to grant further interest under section 244A(1A) on interest component of refund as claimed in above Grounds, till the date of actual receipt of refund.*

**Ground No. 8-Interest on Interest u/s 244A of the Income Tax Act**

*1. Consequent upon relief granted in Ground No. 1 to 7 above, interest be granted under section 244A of the Act on additional refund that becomes due.*

*2. The Appellant prays that the AO may be directed to grant interest under section 244A of the Act.*

*The Appellant craves leave to add, amend, alter or delete any of the above grounds of appeal as may be advised in due course."*

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative (Id. AR) of the assessee submits that in all appeals the assessee has raised grounds of appeal in not allowing additional interest under section 244A by assessing officer. The Id. CIT(A) took his view that appeal is not maintainable against the order giving effect. Thereby, appeal was dismissed Id CIT(A) as unadmitted without adjudicating appeal on merit. The Id. AR of the assessee submits that on identical facts and on identical issue, the co-ordinate bench of Tribunal in assessee's own case in assessee's own case for A.Y. 1995-96 in ITA No. 3397/Mum/2008 dated 07.08.2009 held that appeal against the order giving effect is maintainable and Id. CIT(A) ought to have

adjudicated appeal on merit, copy of which is filed. The Id. AR of the assessee submits that all the appeals may be restored back to the file of Id. CIT(A) with the direction to adjudicate of the appeals on merit.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue fairly accepted that all the appeals may be restored back to the file of Id. CIT(A) for adjudication on merit.
4. We have considered the rival submissions of both the parties and find that appeal of assessee was dismissed by Id. CIT(A) by taking view that appeal against the order giving effect is not maintainable. We find that in assessee's own case in A.Y. 1995-96, on similar set of fact, the co-ordinate bench of Tribunal by following decision of jurisdictional High Court in Caltex Oil Refining Ltd. Vs CIT 202 ITR 275 (Bom) held that appeal against the order giving effect on the issue of grant of interest under section 244A is maintainable and the Id. CIT(A) ought to have entertained and disposed of the appeal on merit. Respectfully, following the decision of co-ordinate bench of this Tribunal, all the appeals of assessee are restored back to the file of Id. CIT(A) to adjudicate all the appeals on merit. Needless to direct that before passing the order of Id. CIT(A) shall allow reasonable opportunity to the assessee. The assessee is also directed to provide complete details/working of interest under section 244A to Id. CIT(A). In the result, all the grounds of appeal of assessee is allowed.
5. Considering the fact that we have allowed appeal for A.Y. 2015-16 in ITA No. 4628/Mum/2025, therefore, all the appeals are allowed with similar directions.

6. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order was pronounced in the open Court on 03/09/2025.

**Sd/-**

**RENU JAUHRI  
ACCOUNTANT MEMBER**

**Sd/-**

**PAWAN SINGH  
JUDICIAL MEMBER**

MUMBAI, Dated:03/09/2025  
*Biswajit*

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar  
ITAT, Mumbai