

**IN THE INCOME TAX APPELLATE TRIBUNAL "E" BENCH
MUMBAI
BEFORE MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER
AND
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 874 & 875/MUM/2025
(Assessment Year: 2004-05 & 2005-06)**

DCIT 1(3)(1) Room No. 540, 5 th Floor, Aaykar Bhavan, M.K. Road, Mumbai 400020	Vs.	TATA Communications Limited Videsh Sanchar Bhavan, Mahatma Gandhi Road, Fort, Mumbai G.P.O., Mumbai 400001
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACV2808C		
(Appellant)		(Respondent)

निर्धारिती की ओर से / Assessee by:	Shri. J.D. Mistry Sr. Adv.
/Revenue by:	Shri Hemanshu Joshi, SR. DR

Date of Hearing	18.09.2025
Date of Pronouncement	26.09.2025

आदेश/ORDER

PER RENU JAUHRI [A.M]:

These appeals are filed by the revenue against the order of the National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "CIT(A)") dated 22.08.2024 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for Assessment Years [A.Y.] 2004-05 & 2005-06.

2. The revenue has raised the following grounds of appeal:

1. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the withdrawal of interest u/s 244A, ignoring the fact that the delay was attributable to assessee since the alternate claim of long term capital loss was claimed for the first time by assessee pursuant to decision of ITAT."

3. At the outset, we note that the appeal is delayed by 109 days. Ld. DR has submitted a copy of the letter of Ld. AO explaining the reasons of delay. It has been explained that the order of Ld. CIT(A) was received on 22.08.2024, but the officer holding charge was transferred thereafter, and the charge was being held as an additional charge. Due to work pressure of two heavy charges, the delay in filing of appeal occurred which was unintentional and due to bonafide reasons. After considering the explanation, we hereby condone the delay of 109 days in filing of the appeal by the revenue.

4. As the grounds in both the appeals are identical and the facts and circumstances are also similar, both appeals are being disposed of by a common order and A.Y. 2004-05 is taken as the lead case. The sole issue involved in the appeal pertains to withdrawal of interest granted earlier u/s. 244A of the Act.

5. Brief facts of the case are that the assessee filed return on 01.11.2014 wherein a note was appended to the computation of total income stating that if the claim of assessee for ICO Global loss (for A.Y. 2001-02) is not finally allowed as business loss and is only allowed as a capital loss that could be carried forward, the assessee reserves the right to set off the same against the long term capital gain of this year. Subsequently, the issue regarding the deduction of loss was settled vide order of the Hon'ble ITAT for AY 2001-02 vide order dated 08.07.2015, allowing the assessee's alternative claim of capital loss for ICO global loss. Thereafter, to the order of co-ordinate Bench order giving effect for

A.Y. 2001-02 was passed on 04.02.2016, allowing capital loss on ICO global for A.Y. 2001-02 to be carried forward to subsequent years. Subsequently, another order dated 14.03.2017 was passed by the AO for A.Y. 2001-02 u/s. 154 allowing the correct figure of long term capital loss Rs. 670.92 to be carried forward to subsequent years. Accordingly, the assessee vide letter dated 22.03.2017 requested the Ld. AO for setting off of the B/f long term capital loss of AY 2001-02 against the long term capital gain of AY 2004-05 (in terms of request appended by way of note in the computation of income filed with the return). Vide order u/s. 154 dated 31.03.2017, Ld. AO allowed the set off in A.Y. 2004-05 of the B/f long term capital loss of AY 2001-02 and computed the interest u/s. 244A of the Act. Subsequently, vide notice dated 10.03.2017, Ld. AO proposed to withdraw part of the interest granted u/s. 244A in his earlier order dated 31.03.2017. The assessee filed objection to the proposed rectification vide letter dated 09.03.2017. However, the assessee's objection were rejected and order was passed by the Ld. AO on 01.06.2017 withdrawing interest granted earlier u/s. 244A on the ground that the delay was attributable to the assessee. Aggrieved, the assessee filed an appeal against this order, which was allowed by ld. CIT(A) after upholding the assessee's contention that delay cannot be held to the attributable to the assessee under the facts and circumstances of the case.

Against the order of ld. CIT(A), the revenue has filed an appeal before the Tribunal.

6. At the outset, Ld. AR submitted that the assessment order u/s. 143(3) dated 22.12.2006 for A.Y. 2004-05 was quashed by the Hon'ble ITAT vide their order dated 16.08.2019. In the order giving effect to the ITAT's order, Ld. AO has assessed the income at Rs. 293,11,91,130/- and in the computation sheet attached to this order, interest u/s. 244A has been duly allowed as under:

Add: Interest u/s. 244A:		On Rs.	Interest	
From 1-4-04 to 31-3-05 @ 0.5% for 12 mths	A	831,558,450	49,893,507	
From 1-4-05 to 25-1-07 @ 0.5% for 22 mths	B	(487,442)	(53,619)	
From 1-2-07 to 20-2-07 @ 0.5% for 1 mth	C	26,887,235	134,436	
From 1-3-07 to 31-3-07 @ 0.5% for 1 mth	D	426,887,235	2,134,436	
From 1-4-07 to July 2007 @ 0.5% for 4 mths	E	626,887,235	12,537,745	
From 1-8-07 to 31-3-08 @ 0.5% for 8 mths	F	1,010,306,548	40,412,262	
From 1-4-08 to 25-2-10 @ 0.5% for 23 mths	G	687,392,735	79,050,164	
From 1-3-10 to 11-04-11 @ 0.5% for 14 mths	H	1,149,244,286	80,447,100	
From 1-5-11 to 31-08-17 @ 0.5% for 76 mths	I	618,028,454	234,850,812	
From 1-9-17 to 28-2-22 @ 0.5% for 54 mths	J	415,375,077	112,151,271	
				6,11,558,115

It is thus seen that in the light of interest granted as per above computation the revenue's appeal becomes infructuous as the issue becomes irrelevant. Ld. DR has not controverted the above proposition.

7. After hearing the rival submissions and a perusal of material available before us, we are of the considered view that the ground of appeal by the Revenue is no longer relevant and hence the appeal is hereby dismissed as infructuous.

A.Y. 2005-06

8. As the facts and circumstances are similar and vide order u/s. 154 dated 10.06.2022 ld. AO has granted interest u/s. 244A on the refund due to the assessee as per the following computation:

Add: Interest u/s. 244A:		On Rs.	Interest	
From 1-4-2005 to 30-4-2005	A	1,72,35,88,962	86,17,945	
From 1-5-2005 to 31-03-2006	B	2,89,35,88,962	15,91,47,393	
From 1-4-2006 to 30-4-2006	C	1,82,75,38,347	91,37,692	
From 1-5-2006 to 31-03-2008	D	1,61,52,88,851	18,57,58,218	
From 1-4-2008 to 30-04-2011	E	2,05,24,63,506	37,97,05,749	
From 1-5-2011 to 31-10-2011	F	2,06,15,66,831	6,18,47,005	
From 1-11-2011 to 01-06-2017	G	1,40,46,97,819	47,75,97,258	
From 1-7-2017 to 02-06-2022	H	35,72,65,983	10,71,79,795	
				1,38,89,91,054

Thus for this year also, the decision of A.Y. 2004-05 will apply mutatis mutandis and hence the appeal of Revenue is dismissed as infructuous as the issue is no longer relevant.

8. In the result, both the appeals of the Revenue are hereby dismissed.

Order is pronounced in the open court on 26.09.2025

Sd/-
KAVITHA RAJAGOPAL
(JUDICIAL MEMBER)

Sd/-
RENU JAUHRI
(ACCOUNTANT MEMBER)

Place: Mumbai
Dated: 26.09.2025
Divya R. Nandgaonkar
Stenographer

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to:

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

**सत्यापित प्रति //True Copy//
आदेशानुसार / BY ORDER,**

**सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण / ITAT, Bench,
Mumbai.**