

IN THE INCOME-TAX APPELLATE TRIBUNAL "A" BENCH,
MUMBAI

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

&

SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.6972/MUM/2024
(A.Y. 2005-06)

ITA No.6973/MUM/2024
(A.Y. 2006-07)

ITA No.6974/MUM/2024
(A.Y. 2007-08)

LIC Housing Finance Ltd. 13 th Floor, Maker Tower – F, Cuffe Parade, Mumbai – 400 050, Maharashtra	v/s. बनाम	Assistant Commissioner of Income Tax, Circle 2(2)(1), Aayakar Bhavan, Mumbai - 400 020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACL1799C		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri S.Bhandari and Sri Shreyas Shah,(Adv.) and Amicus Curiae
Respondent by :	Shri Surendra Mohan,(Sr. DR)

Date of Hearing	12.12.2025
Date of Pronouncement	12.02.2026

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The above captioned appeals have been filed by the assessee against the orders of even date passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] pertaining to the order passed u/s. 154 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment Years [A.Y.] 2005-06, 2006-07 and 2007-08. Since the issues are common and interlinked, these appeals are being taken up together for adjudication vide this



composite order for the sake of brevity. ITA No.6972/Mum/2024 for AY 2005-06 is taken up as the 'Lead case'. Decision herein would apply *mutatis mutandis* to other appeals.

2. The grounds of appeal are as under:-

1. *On the facts and in law, the Ld. CIT(A) erred in confirming the order passed by Ld JAO denying interest of Rs. 1,11,67,193/- @ 6% claimed by the Appellant Assessee in respect of tax refund of Rs. 11,16,71,928/- determined under Direct Tax Vivad Se Vishwas Act, 2020 which was released / adjusted after delay of 20 months. CIT(A) failed to appreciate that said claim of interest is allowable either u/s 244A of Income Tax Act OR under principles of fairness and natural justice and principles of unjust enrichment as held by Various Courts in decisions cited before the CIT(A) like (a) Hon'ble Apex Court in *UOI v. Tata Chemicals Ltd.* [363 ITR 658 SC] (b) Hon'ble Bom HC in *UPS Freight Services India (P.) Ltd. v. DCIT* [2023] 156 taxmann.com 489 (Bombay) and Hon'ble Rajasthan High Court in *Dwejesh Acharya v. Income Tax Officer* [2023] 157 taxmann.com 332.*

3. In this case of a Public Sector undertaking of Government of India, the assessee filed VSVS application as per *under Direct Tax Vivad Se Vishwas Act, 2020(DTVSV)*. The ld.Pr.CIT while accepting the application passed order determining refund of Rs 11.16 cr. Order Giving Effect(OGE) u/s 5(2) of DTVSV was passed on 18.08.2022 and tax refund of Rs 11.61 cr. was issued to the assessee on 05.01.2023 who vide an application u/s 154 of the Act claimed interest on this sum in terms of section 244A(1)(b) of the



Act stating that there was delay over 90 days in issuing the refund as it was issued after more than 20 months. However, the ld.AO rejected the request on the ground that no interest was allowable on the above Scheme. In the subsequent appeal, the ld.CIT(A) dismissed the appeal too, agreeing with the AO in rejecting the claim of the assessee by observing that the section 244A (1)(b) of the Act provides for tax refunds due under the provisions of the Act i.e., Order Giving Effect (OGE) to assessment orders, rectification under normal provision u/s.154 of the Act, appeal effect orders, etc. On the other hand, the impugned refund had become due under DTVSV Act which is a relief scheme floated by the Government for reducing the disputed matters. As such, the provisions of section 244A of the Act had no application in the present case, and therefore, the claim made by the assessee was found untenable and the appeal was dismissed.

4. Before us, the ld.AR has argued that the ld.CIT(A) did not take into account various judicial decisions which are directly applicable to the facts and support the claim of the assessee for interest on such delayed refund. It has also been pointed out that in terms of section 153(5) of the Act, a time line of three months has been prescribed under the Act for passing OGE to appeal order. Further, sub section (1A) to 244A also provides for additional interest at the rate of 3% p.a. for the delay beyond above time allowed. Attention is also drawn to the Citizens Charter of the



Income Tax Department which inter alia in respect refund provides for issue of refund including interest from proceedings other than section 143(1)(a) of the Act against which time line prescribed is one month (from the end of the month in which return/application is received/cause of action arises). In its case, cause of action arises from the date of issue of Form no.5.

4.1 It is further contended orally as well through a written submission that its tax refund has been determined under the Act and not under DTVSV Act. Therefore, interest is allowable u/s 244A(1)(b) under the Act. It is argued that Article 265 of Constitution of India provides that “No tax shall be levied or collected except by authority of law.” The Union List, also known as List I, is part of the Seventh Schedule of the Constitution that lists subjects on which the Parliament of India has exclusive power to legislate. Entry 82 of Union List covers “*Taxes on income other than agricultural income*”. Accordingly, Income Tax Act was legislated, with approval of Parliament, empowering Central Government to levy tax on income. This is followed by Finance Act, which is passed by Parliament every year, among others, prescribing rate of tax. Thus, the Act and Finance Acts are the legislations that empower Central Government to levy and collect tax on income. Power to levy tax comes with liability to give refund of tax collected excessively.



4.2 Attention has been drawn to the DTVSV Act 2020 and the Statement of Objects and Reasons to The Direct Tax Vivad se Vishwas Bill 2020 presented on 1st February 2020. Ultimate purpose of the Bill is ‘dispute resolution’. It does not determine tax payable or refundable. Under the DTVSV Act 2020, in a case where income is disputed, disputed tax is computed at 100% in accordance with the Act and the applicable Finance Act of that year. Benefit to assessee is that interest levied upto the date of assessment order PLUS interest to be levied for further period of non-payment, is waived. Assessee is also granted immunity from levy of penalty. After raising of demand, if an assessee has not paid tax, then he has to only pay ‘disputed tax’ and interest levied and leviable is waived. If an assessee has paid the demand, then he gets refund of interest paid and interest leviable for further period is waived.

4.3 It is further submitted that perusal of the Explanation to section 7 of VSV Act 2020 would reveal that it pertains to payment of any amount under the Income-tax Act for the period before filing the declaration under sub-section (1) of Section 4 of the VSV Act, 2020 and nothing to do with the entitlement to interest for the period after issuance of Form No. 5 indicating entitlement of the petitioner to the amount of refund. It is, therefore, submitted that tax refunds due to the assessee Company is effectively due



under the Act and consequently provisions of section 244A(1)(b) applies which reads as follows:-

(b) in any other case, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

4.4 It is argued with regard to the reliance on decisions of Hon'ble Bombay High Court in the case of **UPS Freight Services India (P.) Ltd. v. DCIT [2023] 156 taxmann.com 489 (Bombay)** and Hon'ble Rajasthan High Court in the case of **Dwejesh Acharya v. Income Tax Officer [2023] 157 taxmann.com 332 (Rajasthan HC)** that legally speaking Writ Petition is disposed of considering peculiar facts and circumstances of the case exercising special powers of the Writ Court and hence, it may not be binding on Hon'ble ITAT, yet it has persuasive value.

4.5 As regard applicability of the decision in the case of **Tata Chemicals Ltd. [363 ITR 658]**, it is stated that it is a case where interest was granted on refund of TDS though there was no specific provision in the Act for the same. Attention was drawn to concluding para 38 of the order specially following part:-

The Government, there being no express statutory provision for payment of interest on the refund of excess amount/tax collected by the Revenue, cannot shrug off its apparent obligation to reimburse the deductors lawful monies with the accrued interest for the period of undue retention of such monies. The State having received the money without right, and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without



right implies and carries with it the right to interest. Whenever money has been received by a party which ex ae quo et bono ought to be refunded, the right to interest follows, as a matter of course.

4.6 It is submitted that once the Hon'ble Apex Court gives a ruling, it becomes 'The Law of The Land'. Reliance is also placed on the decision of Hon'ble Mumbai ITAT in the case of **Deutsche Bank A. G. Vs The Deputy Director of Income Tax (International Taxation) ITA No. 3789/Mum/2010** wherein interest on interest was allowed following decision of Hon'ble Apex Court in H.E.G. Ltd. in 324 ITR 331 (SC).

4.7 It is pleaded that denial of refund will lead to absurd results. Major part of the refund has been adjusted against the then existing tax demands and this adjustment could have been done immediately on issuance of Form 5 by Pr. CIT. On the outstanding demand, the assessee continued to pay interest @ 12% p.a. which was not allowed as expenditure, whereas interest, if paid now, would suffer tax @ 26%. Ironically, there is no time limit prescribed under DT VSV Act 2020 for grant of refund due and if it is held that no interest is payable on delayed refund, then Department can take even ten years to issue refund, present value of which will be Zero. Recently, new Scheme of DT VSV 2024 was launched which is after 2 decisions of Hon'ble HC of the year 2023, yet there is no provision in new scheme specifically denying payment of interest on delayed refund.



5. Per contra the ld.DR has placed reliance on the orders of authorities below. A written submission has also been submitted. The chronological event as submitted by the assessee is tabulated as under -

Sr	Particulars	AY 2005-06	AY 2006-07	AY 2007-08
1	Date of Form 5	22.03.2021	30.12.2020	30.12.2020
2	90 days' time expired on	20.06.2021	30.03.2021	30.03.2021
3	Date of order u/s 5(2) of DTVSV Act	18.08.2022	18.08.2022	21.10.2022
4	Date of issue of refund/adjustment against demand	5.01.2023	30.12.2022	21.10.2022
5	Delay in number of months	20 Months	22 Months	20 Months
6	Amount of refund	Rs. 11,16,71,928/-	Rs. 3,58,94,362/-	Rs. 44,63,388/-
7	Interest claimed @6 p.a. u/s 244A	Rs. 1,11,67,193/-	Rs. 39,48,380/-	Rs. 4,46,339/-

5.1 It is contended by the ld.DR that the assessee has submitted that the jurisdictional High Court, in its decision in the case of UPS Freight Services P Ltd. Vs DCIT (supra) and others, has directed the department to pay interest u/s 244A for delay in issue of refund. However, it needs to be emphasized that this decision has been given by the jurisdictional constitutional court, in exercise of its extraordinary writ jurisdiction. The focus therein consequently was on the decision making process and constitutionality, rather than deciding the questions of fact and law based on the record of the case, as is done by the appeal courts and tribunals in statutory appeals. The only decision in favour of the revenue on the issue is



of Hon'ble High Court of Madras in the case of Ansaldo Energia SPA Vs DCIT, (2024) 162 taxmann.com 152 (Mad) in the WP Nos. 1039 & others of 2021 and 2024.

5.2 It is further stated that DTVSV Act, 2020 bars refund provided for in the Act. The DTVSV Act, 2020 is a complete Code in itself. This is evident from its scheme and the statutory prescription provided therein, it relates to realization of tax arrears by elimination or the avoidance or the deemed cessation of litigation, In this regard, it is apposite to refer to Section 7 of the DTVSV Act along with its explanation. This reads as under-

“7. Any amount paid in pursuance of a declaration made under section 4 shall not be refundable under any circumstances.

Explanation. - For the removal of doubts, it is hereby clarified that where the declarant had, before filing the declaration under sub-section (1) of section 4, paid any amount under the Income-tax Act in respect of his tax arrear which exceeds the amount payable under section 3, he shall be entitled to a refund of such excess amount, but shall not be entitled to interest on such excess amount under section 244A of the Income-tax Act.

5.3 It is argued that the explanation to Section 7, as extracted above, plainly and unambiguously states that while an assessee disputant would be eligible to a refund of any paid excess amounts, he shall not be entitled to any interest on such excess amount under section 244 of the Act, as otherwise becomes admissible under section 244A of the Act. Thus, Section 7 of the DTVSV Act, 2020 completely proscribes for payment of any interest to the declarant assessee. It is for this purpose, section 4(7) of the Act



further expressly stipulates that no appellate, arbitral or mediatory recourse would be available to the declarant under the Act in respect of all issues and consequences arising under or in pursuant to the act in respect of tax arrears. Declarant expressly waives all direct or indirect rights to seek or pursue any remedy or claim.

5.4 Herein, in these appeals, after issue of the Forms 5, the AO has given consequent effect to the order u/s 5(2) of the DTVSV Act. The refund in the case of the assessee has arisen while giving such effect. The appellant declarant, while making declarations under Section 4(1) thereof has expressly and unreservedly made declarations waiving its rights, whether direct or indirect and whether available to him under any law including the Act or in equity to seek or pursue to make any claim or seek any remedy qua such tax arrears in terms of section 4(5) of DTVSV Act, 2020. Therefore, in terms of section 4(5), section 4(7) and section 7 of the Act, it is not entitled to even make any claim for interest on entitled refunds as is being sought in these appeals.

5.5 Therefore, it is submitted that when the assessee herein had made the applications under the DTVSV Act, it herein had expressly waived all his rights to make any further claim including the claim of interest, which admittedly relates to as a consequence of the tax arrears. By virtue of the aforesaid provision of law, the assessee herein, therefore, is not legally



justified or entitled to make any claim of interest on the delayed issue of refund by virtue of a statutory prescription. It is also mentioned that after issue of the Form 5, the AO gives consequent effect to the order u/s 5(2) of the DTVSV Act. The refund in the case has therefore arisen while giving the effect under DTVSV Act. As the assessee had already waived all his rights for making any claim u/s 4(5) of DTVSV Act, it is not entitled to make any claim of interest on such refund. The CBDT Circular also does not provide for grant of any interest. This Circular also nowhere speaks about the applicability of section 244A of the Act or giving of any interest on the refund determined under DTVSV Act.

5.6 It is also stated that Form 5 was issued during the peak of the Covid Period on 30.12.2020 and 22.03.2021. The offices were running at that time with bare minimum staff. Further, the timelines for various processes were also extended by the Apex Court. In this context, it would be pertinent to mention that by virtue of the Order dated 10.01.2022 in the In Re: Cognizance for Extension of Limitation in Suo Motu W.P. (C) No. 3 of 2020, the Supreme Court had extended all limitations, whether under the general or special laws, for a further period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply. The claim



of the appellant of delay of 20 to 22 months is, therefore, factually not correct.

6. In the rejoinder, the ld.AR has contended that the Ld. DR placed reliance on the decision of Hon'ble Madras High Court in the case of *Ansaldo Energia SPA v Deputy Commissioner of Income Tax (International Taxation)* reported in 466 ITR 287 (Madras) (11/03/2024) and submitted that this decision is in favour of the Department and as such issue of allowing interest on delayed refund is debatable and hence rectification order passed by AO is outside the ambit of section 154 of the Act. It is submitted that facts of this case are not at par with case of the assessee as could be seen in para 21 of the order, Ansaldo had filed Form-1 under DTVSV 2020 but Department did not agree with its calculation and modified the same in Form-3 which was not acceptable to the assessee. In concluding para 45, Hon'ble Madras High Court has given directions to issue Form-5.

6.1 It is contended that as per proviso to section 7 of DTVSV Act 2020, no interest is payable u/s 244A of the Act on refund determined under DTVSV.CBDT Circular No 3 of 2021 clarifies that where the DA has passed orders under sub-section (1) and (2) of section 5 of Vivad se Vishwas, the Assessing Officer shall pass consequential order under the Act. As such settlement under DTVSV closes when Form-5 is issued by Hon'ble Range



Commissioner and thereafter provisions of the Act stand revived. As such the issue of allowability of interest u/s 244A on delay in releasing refund due as per Form-5 was not before Hon'ble Madras High Court in the case of Ansaldo (supra). Therefore, it is not a debatable issue.

6.2 It is argued that in the order passed u/s 154 of the Act, the AO has not even commented that issue is debatable and hence we humbly submit that Department cannot now take this plea. If required, Hon'ble Range Commissioner can only pass revisionary order u/s 263 of the Act .

6.3 It is reiterated that the issue of eligibility of interest u/s 244A or otherwise is supported by the decision of Hon'ble Apex Court in Tata Chemicals (363 ITR 658) in the case of Commissioner of Income Tax v. Bindal Industries Ltd (328 ITR 160 (Allahabad) it was held that "*The law declared by the apex court is binding on every court and authority. A decision contrary to law can be rectified under section 154 of the Income-tax Act.*" Reliance also placed on Instruction No. 2/2007 dated 28/03/2007.

7. We have carefully considered all the relevant facts of the case, rival submissions, orders of the Id.AO and the CIT(A), provisions contained in DTVSV as also the legal proposition emerging from the cited decisions above. It is noticed that the Id.PCIT issued Form no.5 accepting the application of the assessee on 22.03.2021 whereby it was entitled to refund. The AO should have passed OGE within 90 days i.e. upto 20.06.2021 which



was actually passed on 18.08.2022 and the refund was issued on 05.01.2023 after a delay of 20 months. Therefore, the assessee claimed interest @6 % on the refundable amount of Rs 11.16 cr.

7.1 The assessee has claimed interest on refund on the principles of fairness and justice and denial of unjust enrichment. It has heavily relied on hon'ble jurisdictional High Court decision in the case of **UPS Freight Services India P.Ltd vs DCIT(2023) 156 Taxmann.com 489(Bom)** and also on the decision of hon'ble Rajasthan High Court in **Dwejesh Acharya 157 Taxmann.com 332(Raj), Anjul vs PCIT(WP(C) No.1985 of 2022 145 Taxmann.com140(Delhi)** and hon'ble Apex Court in **UOI vs Tata Chemicals Ltd 363 ITR 658**. It is noted that the Id.CIT(A) has not considered these cited decisions which appear to be directly applicable to the facts of the case.

7.2 The relevant extracts of the decision of hon'ble **Bombay High Court** in the case **UPS Freight Services India P.Ltd vs DCIT(supra)** are reproduced below for ready reference:

“6. Mr Bajpayee submits, relying upon the affidavit in reply, that **DTVSV Act** does not provide for any interest on excess amount under **Section 244A** of the Income Tax Act, 1961 (the Act). In response, Mr. Gandhi relies on the judgment of the Hon'ble Delhi High Court in **Mrs. Anjul v. Office of Principal Commissioner of Income-tax**¹ to submit that the Hon'ble Delhi High Court relying upon the judgment of the Hon'ble Apex Court in **Union of India v. Tata Chemicals Ltd.**² has held, **State having received the money without right and having retained and used it, is bound to make the party good, just as an**



individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest. Mr. Gandhi submits that [in that case](#), Petitioner was an individual and the Court granted 5% simple interest. In the case at hand, Petitioner is a corporate entity, which has to borrow amount at very high rate of interest for paying these amounts and, therefore, this Court should grant at least the rate of interest which is provided for in [Section 244A](#) of the Act.

7. It will be useful to reproduce paragraph 2 of the **circular 11/2016 (F.No.279/MISC./M-140/2015-ITJ]** dated **26.4.2016** that Mr Gandhi tendered. It reads as under:

"2. The issue of eligibility for interest on refund of excess TDS to a tax deductor has been a subject matter of controversy and litigation. The Hon'ble Supreme Court of India in the case of Tata Chemicals Limited, Civil Appeal No.6301 of 2011 vide order dated 26.2.2014, held that "**Refund due and payable to the assessee is debt-owed and payable by the Revenue.** The Government, there being no express statutory provision for payment of interest on the refund of excess amount/tax collected by the Revenue, cannot shrug off its apparent obligation to reimburse the deductors lawful monies with the accrued interest for the period of undue retention of such monies. The State having received the money without right, and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest."

8. It will be apposite to re-produce paragraphs 37 and 38 of [Tata Chemicals Ltd.](#) (Supra) and the same reads as under:

"37. A "tax refund" is a refund of taxes when the tax liability is less than the tax paid. As per the old section an assessee was entitled for payment of interest on the amount of taxes refunded pursuant to an order passed under the Act, including the order passed in an appeal. In the present fact scenario, the deductor/assessee had paid taxes pursuant to a special order passed by the assessing officer/Income Tax Officer. In the appeal filed against the said order the assessee has succeeded and a direction is issued by the appellate authority to refund the tax paid. The amount paid by the resident/deductor was retained by the Government till a direction was issued by the appellate authority to refund the same. When the said amount is refunded it should carry interest in the matter of course. As held by the Courts while awarding interest, it is a kind of compensation of use and retention of the money collected unauthorizedly by the Department. When the collection is illegal, there is corresponding obligation on the revenue to refund such amount with interest in as much as they have retained and enjoyed the money deposited. Even the



Department has understood the object behind insertion of Section 244A, as that, an assessee is entitled to payment of interest for money remaining with the Government which would be refunded. There is no reason to restrict the same to an assessee only without extending the similar benefit to a resident/deductor who has deducted tax at source and deposited the same before remitting the amount payable to a non-resident/foreign company.

38. Providing for payment of interest in case of refund of amounts paid as tax or deemed tax or advance tax is a method now statutorily adopted by fiscal legislation to ensure that the aforesaid amount of tax which has been duly paid in prescribed time and provisions in that behalf form part of the recovery machinery provided in a taxing Statute. Refund due and payable to the assessee is debt-owed and payable by the Revenue. The Government, there being no express statutory provision for payment of interest on the refund of excess amount/tax collected by the Revenue, cannot shrug off its apparent obligation to reimburse the deductors lawful monies with the accrued interest for the period of undue retention of such monies. The State having received the money without right, and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest. Whenever money has been received by a party which ex ae quo et bono ought to be refunded, the right to interest follows, as a matter of course."

9. In the present case, it is not in doubt that Petitioner was entitled to refund of Rs.62,81,983/- which ought to have been processed and paid latest by 31st July 2021. The amount as stated in the affidavit-in-reply has been paid only on 26th May 2023. Consequently, we are of the view that Petitioner is entitled to interest on this amount of Rs.62,81,983/- from 1st August 2021 upto 26th May 2023 at the rate of 6% p.a. which is the rate prescribed under [Section 244A](#) of the Act."

7.3 The relevant paras of the decision of hon'ble Rajasthan High Court in the case of **Dwejesh Acharya 157 Taxmann.com 332(Raj)**, are reproduced below for ready reference:

"1. This writ petition has been filed by the petitioner seeking a direction to the respondents for payment of interest on the amount of refund as due against the respondents.

2. Submissions have been made that pursuant to [Vivad Se Vishwas Act, 2020](#) ('VSV Act') for settlement of disputes, the petitioner filed an application on 17/6/2020 for the dispute relating to Assessment Year 2013-14 and after making necessary compliance got the Form No. 3 of the VSV Act on 25/1/2021 indicating a



refund of Rs.3,47,03,505/-. Whereafter, on filing Form No. 4, the petitioner received Form No. 5 from the respondents under VSV Act on 8/3/2021 indicating that full and final settlement has been done in accordance with Form No.3.

3. Pursuant to the Form Nos. 3 & 5 as issued by the respondents under VSV Act, the petitioner made several representations for issuing refund of Rs.3,47,03,505/-. After making several requests, the petitioner received/got adjustment against demands for Rs.11,86,641/- on 10/1/2022, Rs.2,59,48,974/- on 30/5/2022, Rs.70,476/- on 22/10/2021 and Rs.74,97,414/- on 20/1/2022 totaling Rs.3,47,03,505/-, however, no interest was paid for the delayed payment.

4. Learned counsel for the petitioner made submissions that though the entire amount to which the petitioner was entitled on 8/3/2021 on issuance of Form No.5 (Annex.9) has been paid to the petitioner, after making several representations, for the period the refund has been kept by the respondents after petitioner's entitlement, the petitioner is entitled to interest on the said amount.

5. Submissions have been made that the provisions of [Section 244A \(1\)](#) of the Income Tax Act,1961 are applicable and based on the said provision the petitioner is entitled to interest.

6. Reliance has been placed on Anjul vs. PCIT : WP (C) 1985/2022 decided on 23/8/2022 by Delhi High Court and [UPS Freight Services India Pvt. Ltd. Vs. Deputy Commissioner of Income Act](#) : WP (L) No.10314/2023 decided on 28/8/2023 by the Bombay High Court.

7. A reply to the writ petition has been filed inter alia denying the entitlement of the petitioner to seek any interest on the amount of refund.

8. Submissions have been made that the provisions of [Section 244A](#) of Income Tax Act have no application, on the other hand Explanation to Section 7 of the VSV Act, 2020 specifically prohibits grant of any interest and application of provisions of [Section 244A](#) of the Income Tax Act and, therefore, the petition deserves dismissal.

9. We have considered the submissions made by learned counsel for the parties and have perused the material available on record.

10. A perusal of Form No. 5 (Annex.9) clearly reveals that the order has been passed by the designated authority under the VSV Act, 2020 and Rules determining the amount of Rs.3,47,03,505/- refundable to the petitioner in accordance with the provisions of the Act. Once the order in Form No. 5 has been issued on 8/3/2021, the petitioner became entitled for the amount of refund. Admittedly, the said amount was refunded to the petitioner/adjustment towards the demands on 22/10/2021, 10/1/2022, 20/1/2022 and 30/5/2022. No reason worth the name has been indicated in response for the delay in refunding the amount to which the petitioner became entitled on passing of order in Form No.5 way back on 8/3/2021.



11. The Delhi High Court in the case of Ms. Anjul (supra) while relying on one judgment of Hon'ble Supreme Court in [Union of India v. Tata Chemicals Limited](#) : (2014) 6 SCC 335 held that the State having received the money without right and having retained and used it, is bound to make the party good, just as an individual would do under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest.

12. Bombay High Court in the case of [UPS Freight Services](#) (supra) while following the order in the case of Ms. Anjul (supra) also ordered for payment of interest as per the rate prescribed under [Section 244A](#) of the Income Tax Act in similar circumstances.

13. So far as the plea raised by learned counsel for the respondents with reference to provisions of Explanation to Section 7 of VSV Act, 2020 is concerned, the same has been noticed for rejection only.

14. The provision of Section 7 of VSV Act, 2020 reads as under:

"7. Any amount paid in pursuance of a declaration made under [section 4](#) shall not be refundable under any circumstances.

Explanation.- For the removal of doubts, it is hereby clarified that where the declarant had, before filing the declaration under sub-section (I) of [section 4](#), paid any amount under the [Income-tax Act](#) in respect of his tax arrear which exceeds the amount payable under [section 3](#), he shall be entitled to a refund of such excess amount, but shall not be entitled to interest on such excess amount under [section 244A](#) of the Income-tax Act."

15. A bare perusal of the Explanation would reveal that the Explanation pertains to payment of any amount under the [Income Tax Act](#) for the period before filing the declaration under sub- section (1) of Section 4 of the VSV Act, 2020 and nothing to do with the entitlement to interest for the period after issuance of Form No.5 indicating entitlement of the petitioner to the amount of refund.

16. In view of the above discussion, for the delayed payment, the petitioner is entitled to interest on the refund amount for the delay beyond the period of 90 days from the date of refund i.e. 8/3/2021.

17. Consequently, the writ petition is allowed. It is directed that the respondents-revenue shall make payment of interest @ 6% p.a. on the delayed refund amount w.e.f. 8/6/2021 i.e. beyond the period of 90 days from the date of determination of refund amount on 8/3/2021 till the date of actual/last payment. As the payment/adjustment has been made on various dates, interest would be calculated on the balance amount till each respective date. The payment of interest be made within 08 weeks from the date of this order."

7.4 We find the above decisions are squarely applicable to the facts of the case under consideration. Similar order has been passed recently by



hon'ble Allahabad High Court in the case of **Dish TV India Limited vs Commissioner Of Income Tax (Tds) on 2 December, 2024 in WRIT TAX No. - 1953 of 2024 dated 02.12.2024.** In the case of **Samarpan Foundation vs CIT(Exemption) (2025) in 174 taxmann.com1010(Guj)** also interest on refund w.r.t. refund under DTVSVA. It was ordered in para 7.1 that in the case of Tata Chemicals Limited (supra), it has been held as under : –

“37. A “tax refund” is a refund of taxes when the tax liability is less than the tax paid. As per the old section an assessee was entitled for payment of interest on the amount of taxes refunded pursuant to an order passed under the Act, including the order passed in an appeal. In the present fact scenario, the deductor/assessee had paid taxes pursuant to a special order passed by the assessing officer/Income Tax Officer. In the appeal filed against the said order the assessee has succeeded and a direction is issued by the appellate authority to refund the tax paid. The amount paid by the resident/ deductor was retained by the Government till a direction was issued by the appellate authority to refund the same. When the said amount is refunded it should carry interest in the matter of course. As held by the Courts while awarding interest, it is a kind of compensation of use and retention of the money collected unauthorisedly by the Department. When the collection is illegal, there is corresponding obligation on the revenue to refund such amount with interest in as much as they have retained and enjoyed the money deposited. Even the Department has understood the object behind insertion of Section 244A, as that, an assessee is entitled to payment of interest for money remaining with the Government which would be refunded. There is no reason to restrict the same to an assessee only without extending the similar benefit to a resident/ deductor who has deducted tax at source and deposited the same before remitting the amount payable to a non-resident/ foreign company.

38. Providing for payment of interest in case of refund of amounts paid as tax or deemed tax or advance tax is a method now statutorily adopted by fiscal legislation to ensure that the aforesaid amount of tax which has been duly paid in prescribed time and provisions in that behalf form part of the recovery machinery provided in a taxing Statute. Refund due and payable to the assessee is debt-owed and payable by the Revenue. The Government, therebeing no express statutory provision for payment of interest on the refund of excess amount/tax collected by the Revenue, cannot shrug off its apparent obligation to reimburse the deductors lawful monies with the accrued interest for the period of undue retention of such monies. The State having received the money without right, and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest. Whenever money has been received by a party which ex ae quo et bono ought to be refunded, the right to interest follows, as a matter of course.”



7.2 The aforesaid decision in the case of Tata Chemicals Limited (supra) has been followed in several decisions cited by the learned Counsel for the Petitioner. Further, in a recent decision of this Court in the case of M/s. Sahil Total Infratech Pvt. Ltd. v. Assistant Commissioner of Income Tax Circle 2(1)(2), Surat & Ors. reported in Sahil Total Infratech (P.) Ltd. v. Asstt. CIT, after placing the reliance upon Paragraph No. 37 of Tata Chemicals Limited (supra), this Court had proceeded to hold as under :-

“12. It is true that the Petitioner is not entitled to interest under Section 244A of the Income Tax Act, 1961, however, when the Petitioner has opted for direct tax for Vivad se Visvas Scheme 2020 and filed the application which was approved by the designated authority and refund order is also passed as per the said scheme on 12/05/2022 by the Jurisdictional Assessing Officer, the Petitioner was entitled to the interest on the amount of refund till the same was paid to the Petitioner. The Respondents are therefore liable to pay the interest on the amount of refund which is withheld in view of the decision of the Hon'ble Supreme Court as reproduced herein above.”

7.3 The aforesaid decision of this Court in the case of Sahil Total Infratech Pvt. Ltd. (supra) is squarely applicable to the facts of the Petitioner 's case. Consequently, the present petition succeeds and the Respondent is directed to pay a sum of Rs.4,39,010/- to the Petitioner within a period of Twelve (12) weeks from the date of receipt of a copy of this judgment. If the same is not paid within the time prescribed in this judgment, the said sum shall bear an interest of 12% from the date of this judgment till the date of actual payment of the sum. Rule is made absolute to the aforesaid extent. No order as to costs.

7.5 Likewise, the hon'ble Kerala High Court in **Satwashi V. Mane(2025) 173 taxmann.com 105(Ker)** has passed similar order. Honble Delhi High Court in the case of **GE Capital European Treasury Services Ltd(2025) 170 taxmann.com 301(Del)** also allowed similar claim of interest u/s 244A of the Act.

7.6 The Direct Tax Vivad Se Vishwas Act, 2020, was enacted to reduce pending income tax litigation by providing a mechanism for settlement of tax disputes. A key aspect of this settlement is the payment of agreed upon tax arrears and the issuance of refunds where applicable. While the DTVSVA provides a settlement mechanism, any refund arising from



such a settlement is still a “refund of tax” for the purposes of the Act. Section 244A of the Act mandates the payment of interest by the Income-tax Department on refunds due to an assessee. This interest is payable for delays beyond a certain period, usually from the date of payment of excess tax. The above judgments imply that the DTVSVA, while a special enactment for dispute resolution, does not implicitly exclude the applicability of Section 244A for interest on refunds arising from its operation, unless explicitly stated otherwise within the DTVSVA itself. The spirit of the DTVSVA is to provide a comprehensive and final resolution, which should include all ancillary benefits like interest on refunds. The right to interest on a refund is a statutory right, and it generally accrues when the tax department holds onto money that is rightfully due to the assessee. As held by the hon’ble Rajasthan High Court in the case of **Dwejesh Acharya**(supra), bare perusal of the Explanation to Section 7 of VSV Act, 2020 would reveal that it pertains to payment of any amount under the [Income Tax Act](#) for the period before filing the declaration under sub-section (1) of Section 4 of the VSV Act, 2020 and nothing to do with the entitlement to interest for the period after issuance of Form No.5 indicating entitlement of the petitioner to the amount of refund. The above cited decisions are significant for taxpayers who opted for DTVSVA, confirming their entitlement to interest on any delayed refunds arising from the



scheme, ensuring they are fully compensated for the time value of their money.

7.7 Considering the totality of the facts involved and the judgement cited above, we are of the view that the issue in hand is squarely covered by the judgement of the Hon'ble Supreme Court in the case of **Union of India vs. Tata Chemicals Pvt Ltd.**(supra) and subsequently by Hon'ble Delhi High Court in the case of **Mrs.Anjul Vs. Office of Principal Commissioner of Income-tax.**(supra), and by the Hon'ble Bombay High Court in the case of **UPS Neutral Freight Services India(P) Ltd vs. Deputy Commissioner of Income-tax.**, (supra).It has been categorically held by the Hon'ble Supreme Court in the case of **Tata Chemicals Pvt Ltd** (supra), that the State having received the money without right and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest. Consequently, the Hon'ble Apex Court directed that the petitioner was entitled to interest on refund which was delayed beyond the period of 90 days from the date of determination of the refund amount i.e. 05.04.2021.

7.8 It may also be stated that the hon'ble coordinate bench of ITAT Mumbai in the case of **Deutsche Bank A.G., Mumbai** in ITA



3789/3790 and 4182Mum/2010 also allowed the claim of interest on interest by following the hon'ble Apex Court **decisions in Sandvik Asia Ltd. V. CIT (2006) 280 ITR 643 (SC), CIT vs. H.E.G. Ltd.(2010) 189 Taxman 335 (SC) : 324 ITR 331 (SC)** though there is no express provision in the Act in this regard. Relevant parts of the order are reproduced as below:

"2. The common ground taken by the assessee in all these appeals reads as under:-

"The Commissioner of Income-tax (Appeals) - 10 Mumbai (CIT(A) ought to have held that the appellants had suffered loss of revenue on account of interest under section 244A on the refund that was rightly due as well as potential income it would have earned on interest if it would have received it on time."

3. xxxxxxxxxxxxxx

The assessee claimed that the interest u/s 244A of the Income Tax 1961 (the Act) has not been allowed till the issue of refund voucher. On appeal, the ld. CIT(A) held that the appellant is not entitled to interest on interest u/s 244A of the Act as there is no provisions in [Income-tax Act](#) by which the authorities can grant such compensation and accordingly rejected the claim of the assessee.

4. At the time of hearing, the ld. Counsel for the assessee submits that this issue is covered in favour of the assessee by the decision of the Hon'ble Supreme Court in [Sandvik Asia Ltd. V. CIT \(2006\) 280 ITR 643 \(SC\), CIT vs. H.E.G. Ltd.\(2010\) 189 Taxman 335 \(SC\) : 324 ITR 331 \(SC\)](#) and the recent decision of the Tribunal in [Dy. DIT \(IT\) vs. M/s The Development Bank of Singapore Ltd. in ITA 4754/Mum/2010 order dated 31-01-2012 for A.Y. 2001-02](#). He also placed on record the copy of the said order of the Tribunal. He, therefore, submits that the interest u/s 244A be allowed up to the date of receipt of the refund.

5. The ld. D.R., on the other hand, while strongly relying on the order of the ld. CIT(A) submits that under the [Income-tax Act](#) there is no such provision to allow such interest and, therefore, the ld. CIT(A) was fully justified in not allowing the same. She, therefore, submits that the order passed by the ld. CIT(A) be upheld.

6. We have carefully considered the submissions of the rival parties and perused the material available on record. We find that the facts are not in dispute inasmuch as it is also not in dispute the A.O. has not granted the interest [u/s 244A](#) upto the date of issue /receipt of refund.



7. In *Sandvik Asia Ltd.* (supra) it has been held that "the assessee was entitled to interest on the amounts of interest paid under [section 214](#) Deutsche Bank A.G. and/or [section 244](#), and that the Department was bound to grant interest which had accrued for those periods".

8. In *H.E.G. Ltd.* (supra) it has been held (Head Note of (2010) 324 ITR 331(SC):

"Held, rejecting the claim of the Department, that the interest component partook of the character of "amount due" under [section 244A](#) and became an integral part of Rs. 45,73,528/- which was not paid for 57 months after that amount became payable. The assessee was entitled to interest for 57 months on Rs. 45,73,528/-."

9. In the *Development Bank of Singapore Ltd.* (supra) the Tribunal directed the A.O. to allow interest on interest in accordance with the decision of the Hon'ble Supreme Court in the case of *Sandvik Asia Ltd.* (supra).

10. Respectfully following the authoritative pronouncement of the Hon'ble Supreme Court in *H.E.G. Ltd.* (supra) we are of the view that all the decisions relied on by the Revenue are distinguishable and not applicable to the facts of the present case. This being so we direct the A.O. to allow the interest u/s [244A](#) in accordance with the decision of Hon'ble Apex Court in the case of *H.E.G. Ltd.* (supra). The common grounds taken by the assessee in all these three appeals are, therefore, allowed."

7.9 Generally the decisions or orders of higher authorities are binding on the lower authorities i.e. the judgment of Supreme Court is binding on all High Courts, lower courts. The judgment of High Court is binding all lower courts. [Article 141](#) of the [Constitution of India](#) provides that the law declared by the Supreme Court shall be binding on all courts within the territory of India. But as regard the application of precedents of the High Courts there is no direct Constitutional provision as [Article 141](#). In *M/s. East India Commercial Co. Ltd. Calcutta and Another v. Collector of Customs, Calcutta 1962 (5) TMI 23*, the hon'ble Supreme Court held that the law declared by the highest court in the State is binding on authorities or tribunals under its superintendence. Likewise, in *Bishnu Ram Borah and Another vs. Parag Saikia & Ors. AIR 1984 SC 898*, it was held that the board of Revenue or any other subordinate tribunal is subject to the writ jurisdiction of the High Court under Article 226 of the Constitution. Just as the judgments and orders of the Supreme



Court have to be faithfully obeyed and carried out throughout the territory of India under Article 142 of the Constitution, so should be the judgments and orders of the High Court by all inferior courts and Tribunals subject to their supervisory jurisdiction within the State under Arts. 226 and 227 of the Constitution.

8. Respectfully following the authoritative pronouncement of the Hon'ble Supreme Court in **Union of India vs. Tata Chemicals Pvt Ltd.**(supra) and the jurisdictional High Court as also the decision of other High Courts referred in the preceding para, we direct the AO to allow the interest **u/s 244A** of the Act. The common grounds taken by the assessee are, therefore, allowed.

9. Since the issue is exactly similar in appeals for the AYs 2006-07 and 2007-08 also, the decision given in para 9 above would be *mutatis mutandis* applicable to those appeals also.

10. Last, but not the least, we place on record our sincere thanks to the two Amicus Curiae, Shri Shreyas Shah, Advocate and Shri Satya Prakash Singh, Ld. CIT(DR) for their tremendous assistance rendered to the Bench in deciding the instant appeals.

11. In the result, **all the aforesaid appeals of the assessee are allowed.**



Order pronounced in the open court on 12/02/2026.

Sd/-

NARENDER KUMAR CHOUDHRY
(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR
(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai
दिनांक /Date 12.02.2026
Lubhna Shaikh / Steno

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,

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

