

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

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER &
SHRI AMARJIT SINGH, JUDICIAL MEMBER.

ITA No. 3975 /MUM/2015
(Assessment Year : 2008-09)

The ACIT 2(1)(2),
R.No.561, 5th Floor, Aaykar Bhavan,
MK Road, Mumbai 400 020 ... Appellant
Vs.

M/s. Central Bank of India,
4th Floor, Chander Mukhi,
Nariman Point,
Mumbai 400 021. Respondent

Appellant by : Shri B.C.S.Naik
Respondent by : Shri Madhur Agarwal

Date of hearing : 19/07/2016
Date of pronouncement : 22/07/2016

ORDER

PER G.S.PANNU,A.M:

The captioned appeal filed by the Revenue pertaining to assessment year 2008-09 is directed against an order passed by CIT(A)-4, Mumbai dated 09/03/2015 which in turn arises out of an order dated 22/03/2013 passed under section 250 of the Income Tax Act, 1961 (in short 'the Act').

2. In this appeal, the Revenue has raised the following Grounds of appeal:-

"1. "On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in holding that the interest portion of the refund issued earlier has to be ignored for the purpose of calculating interest under section. 244A of the Income Tax Act, 1961, payable to the

assessee, on refund arising out of the order giving effect to other of appellate authority.”

2. “On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in interpreting the provision of Section 244A of the Income Tax Act, 1961.”

3. The respondent assessee is a Public Sector Bank engaged in the business of banking and other related financial activities. The brief facts, relevant for the present purpose, are that the Assessing Officer passed an order under section 250 of the Act on 22/3/2013, giving effect to the appellate order of the CIT(A), whereby the refund was determined at Rs.166,10,67,723/- including interest due to the assessee under section 244A of the Act of Rs.47,71,41,344/-. However, as per the assessee such interest under section 244A was liable to be determined at Rs.49,07,21,750/-. The area of difference between assessee and Revenue was as to whether the interest portion of the refund issued earlier was to be ignored for the purpose of calculating interest under section 244A of the Act, while determining the refund arising out of the order giving effect to the appellate order.

4. In appeal before CIT(A), assessee relied upon the order of the Tribunal in the assessee's own case for various assessment years namely, 1991-92,1997-98,1999-2000,2007-08 and 2008-08 decided vide ITA Nos. 5431 to 5435/Mum/2013 dated 31/12/2014, wherein identical controversy has been adjudicated in favour of the assessee. The CIT(A) following the aforesaid precedents upheld the plea of the assessee and directed the Assessing Officer to calculate the interest payable to the assessee under section 244A without reducing the interest under section 244A, which was a part of the refund earlier

granted. Against such a decision of the CIT(A) Revenue is in appeal before us.

5. Before us, it was a common point between the parties that the order of the Tribunal dated 31/12/2014(supra), which has been relied upon by CIT(A), continues to hold the field as it has not been altered by any higher authority and, therefore, the order of the CIT(A) does not require any interference. Accordingly, the order of the CIT(A) is hereby affirmed and Revenue fails in its appeal.

6. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 22/07/2016

Sd/-

(AMARJIT SINGH)
JUDICIAL MEMBER
Mumbai, Dated /07/2016

Sd/-

(G.S. PANNU)
ACCOUNTANT MEMBER

Vm, Sr. PS

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai