

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8176 OF 2009  
(Arising out of S.L.P.(C) No.18045/2009)

Commissioner of Income Tax, Bhopal ...Appellant(s)

Versus

M/s. H.E.G. Limited ...Respondent(s)

W I T H

CIVIL APPEAL Nos.8177 & 8187 OF 2009  
(Arising out of S.L.P.(C) No.18046/2009 &  
S.L.P.(C) No. 34268/2009 (CC 10437/2009)

O R D E R

Mr. Ajay Vohra, learned counsel, appears for the  
respondent-assessee.

Delay condoned in S.L.P.(C) No...CC 10437/2009.

Leave granted.

In income tax matters, it is well settled that if  
the question is not properly framed, then, at times,  
confusion arises resulting in wrong answers. The present  
batch of Civil Appeals is an illustration of the  
proposition mentioned herein-above.

In the synopsis to the Civil Appeal arising out of  
S.L.P.(C) No.18045/2009, the question raised by the  
Department is whether the assessee was entitled to claim

1

interest on interest under the provisions of Section 244A of the Income Tax Act, 1961. In our view, on facts, the question framed was totally erroneous.

Annexure P-1 is Income-tax Computation in Civil appeal arising from S.L.P.(C) No.18045/2009. On going through the Computation, we find that during the Assessment Year 1993-1994, the amount paid by the assessee towards TDS was Rs.45,73,528/-. The Tax paid after Original Assessment was Rs.1,71,00,320/-. The total of TDS amounting to Rs.45,73,528/- plus Tax paid after Original Assessment of Rs.1,71,00,320/- stood at Rs.2,16,73,848/-. In other words, the total tax paid had two components, viz., TDS + Tax paid after Original Assessment. The respondent was entitled to the refund of Rs.2,16,73,848/- (consisting of Rs.1,71,00,320/- and Rs.45,73,528/- which payment was made after 57 months and which is the only item in dispute).

The assessee claimed statutory interest for delayed refund of Rs.45,73,528/- for 57 months between 1.4.1993 and 31.12.1997 in terms of Section 244A of the Income Tax Act. Therefore, this is not a case where the assessee is claiming compound interest or interest on interest as is sought to be made out in the civil appeals

filed by the Department.

2

The next question which we are required to answer is What is the meaning of the words "refund of any amount becomes due to the assessee" in Section 244A? In the present case, as stated above, there are two components of the tax paid by the assessee for which the assessee was granted Refund, namely TDS of Rs.45,73,528/- and Tax paid after Original Assessment of Rs.1,71,00,320/-. The Department contends that the words "any amount" will not include the Interest which accrued to the respondent for not refunding Rs.45,73,528/- for 57 months. We see no merit in this argument. The interest component will partake of the character of the "amount due" under Section 244A. It becomes an integral part of Rs.45,73,528/- which is not paid for 57 months after the said amount became due and payable. As can be seen from the facts narrated above, this is the case of short payment by the Department and it is in this way that the assessee claims interest under Section 244A of the Income Tax Act. Therefore, on both the afore-stated grounds, we are of the view that the assessee was entitled to

interest for 57 months on Rs.45,73,528/-. The principal amount of Rs.45,73,528/- has been paid on 31st December, 1997 but net of interest which, as stated above, partook the character of "amount due" under Section 244A.

3

For the aforesaid reasons, the Civil Appeal arising out of S.L.P.(C) No.18045/2008 filed by the Department fails and is dismissed, with no order as to costs.

In view of the above Order, Civil Appeals arising out of S.L.P.(C) Nos.18046/2009 and CC No.10437/2009, filed by the Department, are also dismissed, with no order as to costs.

.....J.  
(S.H. KAPADIA)

.....J.  
(H.L. DATTU)

.....J.  
(DEEPAK VERMA)  
New Delhi,  
December 03, 2009.