



Tax alert: Refund to be first adjusted against interest, then towards tax

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The Mumbai Bench of the Income-tax Appellate Tribunal has held that interest on refunds is to be calculated by first adjusting the amount of refund already granted towards the interest component and the balance, if any, shall be adjusted towards the tax component.

Background:

- The taxpayer¹ filed its return of income for the Financial Year (FY) 2011-12 corresponding to Assessment Year (AY) 2012-13, on 21 November 2012 (revised on 27 November 2013) declaring loss under the normal provisions of the Income-tax Act, 1961 (ITA).
- The return was selected for audit under section 143(3) of the ITA and final assessment order was passed whereby loss amount was reduced. Aggrieved, the taxpayer filed an appeal before the Mumbai bench of the Income-tax Appellate Tribunal (ITAT) who allowed relief to the taxpayer.
- Subsequently, the AO passed order giving effect (OGE) to the ITAT's order on 6 December 2023 computing loss (which was same as declared by the taxpayer in the revised return) and accordingly, refund became payable to the taxpayer.
- Aggrieved by the OGE passed by the AO based on incorrect computation, the taxpayer filed an appeal and in the course of appellate proceedings, the matter reached before the Mumbai bench of the ITAT.

The contention of the taxpayer, amongst others, was that:

- While passing the OGE, the AO wrongly calculated interest under section 244A of the ITA [relating to interest on refunds] by first adjusting the amount of refund already granted towards the principal, and thereafter the outstanding if any, was adjusted towards interest. Such method of computation was not in accordance with the provisions of the ITA.
- Refund already granted should be first adjusted against the interest component that is due to the taxpayer, and any balance left, should be adjusted towards the principal component. Reliance was placed on earlier ruling² in this regard.

Relevant provisions in brief:

Relevant extract of section 244A of the ITA

“(1) Where refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon...”

¹ Viacom 18 Media Private Limited v. ACIT [ITA No. 1002/Mum/2025] (Mumbai ITAT)

² Tata Sons (P.) Ltd. v. DCIT [2023] 157 taxmann.com 329 (Mumbai ITAT)

Relevant extract of section 140A of the ITA [relating to self-assessment tax]

“Explanation - Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.”

Decision of the ITAT:

The ITAT noted /observed the following:

- When the taxpayer defaults towards payment of advance tax, interest is payable under section 234B and 234C of the ITA. The provision³ is clear to the extent that the amount paid shall first be adjusted towards the interest payable and the balance if any shall be adjusted towards the tax payable.
- The co-ordinate Bench of the ITAT in an earlier ruling⁴ had observed the following:
 - No specific provision has been brought on the statute with respect to adjustment of refund issued earlier for computing the amount of interest payable by the Revenue to the taxpayer on the amount of refund due to the taxpayer. The law is silent on this issue.
 - Under these circumstances, fairness and justice demand that same principle be applied while granting the refund, as has been applied while collecting amount of tax. The Revenue is not expected to follow double standards while dealing with the taxpayers.
 - The fundamental principle of fiscal legislation in any civilised society should be that the state should treat its citizens, (i.e., taxpayers in this case) with the same respect, honesty and fairness as it expects from its citizens.
- Similarly, the co-ordinate Bench of the ITAT in another ruling⁵ had held that the amount of interest under section 244A of the ITA is to be calculated by first adjusting the amount of refund already granted towards the interest component and the balance left, if any, shall be adjusted towards the tax component. Therefore, the manner in which the AO had adjusted the refund was not correct and the taxpayer was entitled for interest on the unpaid refunds.

In view of the above, the ITAT, in the case under consideration, held that the amount of interest under section 244A of the ITA is to be calculated by first adjusting the amount of refund already granted towards the interest component and the balance left, if any, shall be adjusted towards the tax component.

Comments:

While granting refund to the taxpayer, the Revenue is liable to pay interest on refund in certain cases as specified under section 244A of the ITA. However, the law is silent on the manner of computation as to how the refund granted earlier should be adjusted in determining the interest payable to the taxpayer.

As regards interest payable by the taxpayer, the provision of the ITA is clear that the amount shall first be adjusted towards interest payable, and the balance shall be adjusted towards tax payable. This ruling has held that the Revenue should apply the same principle while granting refund as has been applied while collecting tax from the taxpayer.

³ Explanation to section 140A of the ITA

⁴ Union Bank of India v. ACIT [2016] 72 taxmann.com 348 (Mumbai ITAT)

⁵ Tata Sons (P.) Ltd. v. DCIT [2023] 157 taxmann.com 329 (Mumbai ITAT)

Unlike the ITA, the GST⁶ law does not have provision for sequencing in both recovery and refund contexts. Accordingly, one may need to examine if the interpretative principle adopted under this judgement can be extended to GST scenarios.

Taxpayers may want to evaluate the impact of this ruling to the specific facts of their cases.

⁶ Goods and Services Tax (GST)



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