
[2020] 113 taxmann.com 353 (SC)

INCOME-TAX : There is no reason to deny payment of interest under section 244A to deductor who had deducted tax at source and deposited same with Treasury and, thus, appellant would be entitled to interest on amount refunded by Department



[2020] 113 taxmann.com 353 (SC)

SUPREME COURT OF INDIA

Universal Cables Ltd.

v.

Commissioner of Income-tax

A. M. KHANWILKAR AND DINESH MAHESHWARI, JJ.

CIVIL APPEAL NO. 3826 OF 2012

DECEMBER 12, 2019

Akshat Shrivastava, Inderjeet Yadava, Advs. and Manjeet Kirpal, AOR for the Appellant. K. Radhakrishnan, Sr. Adv. Rupesh Kumar, Ms. Gargi Khanna, Advs. and Mrs. Anil Katiyar, AOR for the Respondent.

ORDER

Heard learned counsel for the parties.

The limited issue that needs to be considered in the present appeal is whether the appellant would be entitled to interest on the amount refunded by the Department. The appellant relies on the decision of this Court in the *Union of India v. Tata Chemicals Ltd. reported in [2014] 6 SCC 335*, in particular, paragraph 37 of the said decision. The same reads thus: -

"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 inasmuch as they have retained and enjoyed the money deposited. Even the Department has understood the object behind insertion of Section 244-A, 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.*"

(emphasis supplied in italics)

From the dictum in this judgment, it is clear that there is no reason to deny payment of interest to the deductor who had deducted tax at source and deposited the same with the Treasury. In our opinion, this observation squarely applies to the appellant.

As a result, we allow this appeal and direct the Department to pay interest as prescribed under Section 244-A of the Income Tax Act as applicable at the relevant time at the earliest.

The appeal is allowed in the aforesaid terms. No costs. All pending applications are disposed of.

ORDER

The appeal is allowed in terms of signed order.

Pending application(s), if any, shall stand disposed of.

■ ■