



Tax alert: Taxpayer entitled to interest on refund of excess DDT paid

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The Mumbai Bench of the Income-tax Appellate Tribunal has held that taxpayer is entitled to interest on Dividend Distribution Tax (DDT) refund, under section 244A of the Income-tax Act, 1961 (ITA), from the date of payment of excess DDT.

In a nutshell



Interest payment is a statutory obligation and non-discretionary in nature to the taxpayer.



The language employed in section 244A of the ITA is clear and plain. It grants substantive right of interest and is not procedural.



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Background:

- The taxpayer¹ is a company engaged in the business of running hotels.
- For the Financial Year (FY) 2013-14, corresponding to Assessment Year (AY) 2014-15, the taxpayer filed its return of income claiming refund of Dividend Distribution Tax (DDT).
- The Assessing Officer (AO) vide order under section 154 [relating to rectification of mistake] of the Income-tax Act, 1961 (ITA) granted refund of DDT. However, interest on refund was not granted either under section 244A [relating to interest on refunds] of the ITA or under any other provisions of law, for the following reasons, amongst others:
 - The taxpayer's case did not fall under section 244A(1)(a) or 244A(1)(aa) of the ITA.
 - As per the explanation to section 244A(1)(b) of the ITA, the intention of the legislature was to grant refund of excess payment made for regular payment of penalty, where the notice of demand was issued under section 156 of the ITA. In the taxpayer's case there was no such demand notice served under section 156 of the ITA.
- Aggrieved, the taxpayer filed an appeal and in the course of appellate proceedings the matter reached before the Mumbai Bench of the Income-tax Appellate Tribunal (ITAT).

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 calculated in the following manner, namely:-

(a) where the refund is out of any tax collected at source under section 206C or paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, 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...

...(aa) where the refund is out of any tax paid under section 140A, 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, from the date of furnishing of return of income or payment of tax, whichever is later, to the date on which the refund is granted...

...(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.

Explanation.—For the purposes of this clause, “date of payment of tax or penalty” means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 156 is paid in excess of such demand”

Decision of the ITAT:

The ITAT noted /observed the following:

- Section 244A(1) of the ITA was the only provision applicable in case of the taxpayer and there was no requirement of applicability of subsequent part of section 244A of the ITA.

¹ Piem Hotels Limited v. ACIT [2024] 163 taxmann.com 82 (Mumbai ITAT)

- The earlier ruling² of the Kolkata Bench of the ITAT covered the facts and circumstances of the case under consideration. The ITAT in that case relied on an earlier ruling³ of the Supreme Court (SC), which had observed the following:
 - Interest payment is a statutory obligation and non-discretionary in nature to the taxpayer. In tune with this general principle, section 244A of the ITA was drafted and enacted.
 - The language employed in section 244A of the ITA is clear and plain. It grants substantive right of interest and is not procedural.

In view of the above, the ITAT held that the taxpayer was entitled to payment of interest on the DDT refund from the date of payment of excess tax/ additional tax till the payment of interest.

Comments:

Section 244A of the ITA relates to interest on refunds. It specifically provides for interest on refund in relation to tax deducted at source, tax collected at source, advance tax and self-assessment tax.

Section 244A(1)(b) of the ITA is a residuary clause which provides for interest in other cases (not covered under section 244A(1)(a)/(aa) of the ITA) from the date of payment of tax to the date on which refund is granted. Explanation to section 244A(1)(b) provides the 'date of payment of tax' as the date on and from which the amount of tax/penalty specified in the notice of demand issued under section 156 of the ITA is paid in excess of the demand.

Hence, a question arises as to whether the taxpayer would be entitled to interest on refund of excess DDT paid which is not in pursuance to demand notice issued under section 156 of the ITA. This ruling, while granting interest on DDT refund to the taxpayer, has upheld the following:

- Interest payment is a statutory obligation and non-discretionary in nature to the taxpayer.
- The language employed in section 244A of the ITA is clear and plain. It grants substantive right of interest and is not procedural.

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

² ITC Ltd. v. CIT [IT Appeal No. 301(Kol) of 2015] (Kolkata ITAT)

³ Union of India v. Tata Chemicals Ltd [2014] 43 taxmann.com 240 (SC)

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