The Pr. Commissioner of Income Tax-6 v. Modipon Ltd.

ITA 196/2023 (CM Appl. 16017/2023)

2023:DHC:3678-DB; ITA 196/2023 | 2023-04-06

Section 220(2): first demand notice in September 2014 cannot support interest back to May 1990.

Income-tax Act, 1961: 220(2), 156

High Court of Delhi | Division Bench | Rajiv Shakdher, J. | Tara Vitasta Ganju, J.

Assessment years: 1987-88

01 FACTS OF THE CASE

For AY 1987-88, Revenue challenged ITAT's 13 August 2018 order concerning section 220(2) interest. A deduction for excise duty was shifted to AY 1986-87 with corresponding withdrawal in AY 1987-88. The AO levied Rs.1,62,85,376 interest for 1 May 1990 to 15 September 2014, although the admitted first section 156 demand notice was dated 15 September 2014. CIT(A) deleted the levy and ITAT affirmed.

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02 DISCUSSION BY THE HON'BLE COURT

The Court accepted that the 29 March 1990 assessment had not generated a demand notice and did not include the excise-duty component later added. Section 220(2), on its plain language, concerns an amount specified in a section 156 demand that is not paid within the prescribed time. With the first notice only in September 2014, the earlier-period levy could not stand.

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03 JUDICIAL DECISION

The Court declined interference, held that no substantial question of law arose and closed Revenue's appeal. The 640-day refiling delay was separately condoned without opposition.

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04 OUTCOME / IN WHOSE FAVOUR

Deletion of interest for 1 May 1990 through 15 September 2014 survived. The decision did not waive the underlying tax demand or determine interest for a later default after the prescribed payment period.

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05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

Trace the demand, not merely the assessment date — The decisive finding was absence of a section 156 notice when the 1990 assessment was made, with the relevant component arising later. The case demonstrates why an interest computation must be tied to the actual demand and payment obligation. It does not equate an assessment date, by itself, with a default date for section 220(2).

A first demand differs from restoration of an earlier demand — The Court repeatedly treated 15 September 2014 as the first demand and relied on the earlier assessment not containing the excise-duty component. A dispute involving an existing demand later reduced or restored would need its own documentary analysis. The source supplies no general determination of all appellate revival situations.

Use the clear operative finding despite historical inconsistencies — The narrative contains mismatched appellate dates, a May/September 2014 sequence and differing excise-duty amounts. Those details require underlying orders for reconstruction; the note preserves them as qualifications. They do not alter the clearly repeated finding supporting deletion of the specified interest period, and no revised tax or interest arithmetic is attempted.

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SOURCE & VERIFICATION

High Court of Delhi source judgment/order

Complete 5-page source PDF; corrected note based on this document.

All 5 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All five original pages read and visually inspected; historical source inconsistencies disclosed while preserving the clear demand finding.

STATUTORY SCOPE

Earlier source chronology is inconsistent: CIT(A) 30 June 1999 precedes a stated ITAT 22 July 1996 order; paragraph 9.1 uses 21 May 2014 despite paragraph 9's September event. Excise-duty figures differ: Rs.88,80,941 versus Rs.88,80,914. These are not silently reconciled.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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