

The Income Tax Officer, New Delhi v. Delhi Development Authority

Civil Appeal No. 3544 of 1998

[2001] Supp. 5 SCR 383 | 2001-11-29

Whether DDA could receive refund interest under historical section 244(1A), rather than only section 244(1), after a section 201 demand was reversed in appeal, although there had been no ordinary assessment of DDA's own income.

2(7) | 2(28A) (underlying Tribunal issue) | 194A (underlying TDS demand) | 201(1) | 201(1A) | 240 | 244(1) | 244(1A) | 244(3) | 244A

Three-judge bench | S.P. Bharucha, C.J. | Y.K. Sabharwal, J. | Brijesh Kumar, J.

Assessment years: 1987-88, 1988-89, 1989-90

Narrow refund-interest disposition; historical year allocation differs

This appeal upheld directions to determine and release DDA's refund interest; it did not decide the separately referred TDS merits, fix a new interest amount or award interest on interest. The narrative of DDA's claim allocates years differently from the High Court paragraph expressly affirmed: the latter places AY 1988-89 under section 244(1A), with section 244A thereafter. Use the historical statutory text and actual payment record. Current law and comprehensive later treatment are unverified.

01 FACTS OF THE CASE

DDA paid amounts to flat buyers for delay in construction and allotment. The ITO treated the payments as interest attracting deduction under section 194A and raised demands under sections 201(1) and 201(1A) for AYs 1987-88, 1988-89 and 1989-90. CIT(A) upheld the demand. On 24 January 1995 the Tribunal held that the amounts credited to allottees were not interest within section 2(28A), quashed the tax authorities' orders and directed refund of amounts recovered. Questions on the underlying issue were later referred to the High Court under section 256(1) on 13 December 1995 (SCR 385-386).

The Department implemented the Tribunal's order but calculated interest under section 244(1). DDA challenged that calculation by writ petition. The Delhi High Court, by judgment dated 31 July 1997 in CM No. 4990/1995 in CWP No. 2996/1995, directed disposal of DDA's interest claim and release of the amount by reference to its paragraph 12. Revenue's Supreme Court appeal concerned that refund-interest direction, not the ultimate merits of the underlying section 194A reference (SCR 385-386).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The parties did not dispute the statutory transition from section 244 to section 244A identified by section 244(3). For the section 244 period, Revenue argued that subsection (1A) was unavailable because the payment did not follow an actual assessment order. The Court rejected the assumption that a refund recipient must first have undergone an ordinary assessment of its own income; tax can also be paid in advance or through the deduction-at-source machinery (SCR 386–387).

The refund here arose from an appellate order under the Act, engaging section 240. Section 201 treated the person liable for the failure to deduct as an assessee in default. The inclusive definition in section 2(7) covered both actual and deemed assessees, including persons involved in refund proceedings. DDA did not cease to be an assessee for refund purposes merely because no ordinary assessment proceeding had occurred (SCR 387–389).

The Court affirmed the High Court's paragraph 12: section 244(1A) was to govern the period covered by AY 1988-89, and section 244A the period thereafter. The payment had been made after 31 March 1975, the historical date specified in section 244(1A). This resolved the statutory basis for disposing of the claim; the Court did not compute a new interest sum, determine the separately referred section 2(28A)/194A merits, or award interest on interest (SCR 386, 389).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

Revenue's appeal was dismissed, with no order as to costs. The High Court's direction to dispose of DDA's refund-interest claim under the stated statutory allocation and release the amount remained effective. No quantified additional interest award or fresh merits adjudication of the underlying TDS liability was made (SCR 389).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: DDA, the refund claimant

Revenue appeal dismissed; High Court interest-determination/release direction upheld; no order as to costs

Final determination of the objection to refund-interest entitlement based on absence of ordinary assessment

The surviving direction requires statutory determination of the interest claim. The Tribunal's view that the buyer payments were not interest is procedural history, not a fresh Supreme Court holding on the pending reference. No general interest-on-interest entitlement or present-rate ruling follows.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Separate the payer's underlying deduction/default liability from its entitlement after that demand is reversed and money becomes refundable. Identify the appellate refund order, payment dates, the historical statutory regime and the claimant's actual or deemed assessee status. Absence of an ordinary assessment order cannot be used alone to exclude the claimant from the refund-interest provisions in this setting.

For a calculation, obtain the payment/refund record and apply the correct year-specific text. Do not copy the narrative description of DDA's claim as if it were the Court's statutory allocation. This appeal upheld directions to determine and release interest; it did not adjudicate all compensatory housing payments or finally quantify the additional amount.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and appeal

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover, jurisdiction and author line

Source role: reported metadata and judicial text

2.

Topic: Underlying TDS demand, Tribunal result and separate reference

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered opening narrative; SCR 385–386

Source role: judicial text

3.

Topic: Interest claim, quoted High Court direction and statutory transition

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: Unnumbered discussion including High Court paragraph 12; SCR 386

Source role: judicial text

4.

Topic: Appellate refund, statutory assessee status and historical interest

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: Unnumbered statutory extracts and reasoning; SCR 387–389

Source role: judicial text

5.

Topic: Affirmed year allocation and dismissal

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Final two judicial paragraphs; SCR 389

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Brijesh Kumar, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 7 PDF pages; SHA-256

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Complete unnumbered judicial text on physical pages 3–7/SCR 385–389, beginning with the author line and ending with dismissal/no-costs. Prior editorial headnote excluded; statutory and High Court quotations read as attributed material. No adjacent judgment.

[Open cited source rendition](#)

The underlying section 201 demands covered AYs 1987-88, 1988-89 and 1989-90. The account of DDA's requested relief allocates section 244A to 1988-89 as well as 1989-90, but the quoted High Court paragraph 12 and the Supreme Court's conclusion instead identify 1988-89 for section 244(1A), with section 244A thereafter. Preserve this source distinction; no revised calculation is invented.

Physical page 4/SCR 386 records DDA as claiming section 244(1A) for 1987-88 and section 244A for 1988-89/1989-90. The same page quotes High Court paragraph 12 applying section 244(1A) to 1988-89 and section 244A thereafter; physical page 7/SCR 389 expressly approves that latter allocation. The note preserves, rather than silently harmonises, the difference.; The report calls the buyer payments interest in the narrative, while recording that the Tribunal held them outside section 2(28A). The underlying reference was recorded separately; this appeal concerned interest on DDA's refund.; The Supreme Court supplies no assessed refund principal, interest calculation, new payment deadline or interest-on-interest award.

The live issue was refund interest under sections 244(1), 244(1A) and 244A, with assessee/default status under sections 2(7) and 201 and appellate refund under section 240. The quoted section 244(3) excludes AY commencing 1 April 1989 and later AYs; the High Court paragraph 12, expressly affirmed, places AY 1988-89 under section 244(1A) and the period thereafter under section 244A. Section 244A(4) appears in that quoted allocation. No current rate or period is certified.

STATUTORY SCOPE

Historical provisions identified from the judgment only. No automatic mapping to the Income-tax Act, 2025 or certification of present statutory text.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial and statutory treatment has not been verified. Only the expressly identified bounded comparisons have been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 7](#)

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