

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE MS MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**ITA Nos. 5416 & 5580/Del/2024
(AYs: 2007-08 & 2008-09)**

DCIT, New Delhi	Vs.	M/s. Sony India Pvt. Ltd, A-18, Mohan Co-operative Industrial Estate, South East Delhi
(Appellant)		(Respondent)
		PAN: AABCS1571Q

Assessee by :	Shri Gaurav Singhal, Adv
Revenue by:	Shri Manish Gupta, Sr. DR
Date of Hearing	23/06/2026
Date of pronouncement	16/07/2026

ORDER

PER BENCH:

These appeals of the revenue are directed against the order of the Id National Faceless Appeal Centre (NFAC), Delhi dated 27.09.2024 pertaining to AYs 2007-08 and 2008-09.

2. The Revenue has filed a revised grounds of appeal as under:

- 1. "Whether on the facts and circumstances of the case and in law, the Ld. CIT has erred in entertaining and adjudicating the appeal filed by the assessee against the appeal effect order dated 06/08/2021 passed by the Assessing Officer, which is not an appealable order within the meaning of Section 246A of the Income Tax Act, 1961.*
- 2. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in assuming jurisdiction over the appeal when the issue raised pertained only to computation of interest u/s 244A in the appeal effect order,*

which cannot be challenged before the CIT(A) under the provisions of Section 246A of the Act. "

3. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate that the appeal under Section 246A can be filed only against the orders specifically enumerated therein and that the impugned order of the Assessing Officer giving effect to the Hon'ble ITAT/High Court order did not fall within the ambit of appealable orders."

4. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in directing the assessing officer to recompute the interest u/s 244A and refund amount, despite the fact that no such adjudication was permissible in an appeal against an order which itself was non-appealable."

5. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in directing to grant interest u/s 244A of the Act on the basis of adjustment of refund generated in present order adjust the interest granted in earlier order first then with the principal amount."

6. "The appellant craves leave, to add, alter or amend any ground of appeal raised above at the time of hearing"

3. Brief background of the case is that the assessee was engaged in the import and distribution of various Sony products including audio/visual entertainment products in the Indian markets. For AY 2007-08, the assessee filed its Return of Income ('ROI') on 30 October 2007 wherein it declared a total income of INR 82,58,38,988/- and no refund was claimed. The ROI was selected for scrutiny and during the assessment proceedings, one of the claims made by the assessee (for depreciation on software licenses at the rate of 60% being the rate applicable to 'Computers') was rejected by the Learned Assessing Officer ('Ld. AO'). However, the claim was subsequently allowed by the Hon'ble Income-tax Appellate Tribunal ('ITAT' or 'Tribunal'), and an Order Giving Effect ('OGE') to the order of the Hon'ble Tribunal was passed by the Ld. AO on 06 August 2021 determining a refund of

INR 45,12,86,718/-. The Ld. AO passed the aforesaid OGE resulting in grant of refund of Rs 51,56,72,638/- including principal amount of Rs 31,97,37,468/- and interest of Rs 18,95,40,421/-. While passing the OGE, the Ld. Assessing Officer adjusted the Part Refund first with the principal component of the refund (i.e., tax portion of the refund) and balance with the interest component of the refund (i.e., interest on tax portion of the refund).

4. On appeal, the CIT(A) entertained the appeal against the order giving effect u/s 246A and held that the partial refund granted in past be adjusted first with the interest refundable (till such date) and thereafter the balance amount be adjusted with the principal component of tax refundable to the assessee. The Revenue is aggrieved and is before us.

5. With respect to the ground 1 to 4, the Id DR vehemently contested the assumption of jurisdiction by the CIT(A) over the appeal and submitted that the Order passed by giving effect to the Hon'ble Tribunal Order is not appealable order within the meaning of Section 246A of the Income Tax Act. The Id Dr submitted that the issue raised by the assessee is computation of interest u/s 244A in the Appeal effect order which cannot be challenged before the CIT(A) as per provision of 246A of the Act.

6. With respect to calculation of interest on refund, the Id DR placed reliance on the decision of the hon'ble Supreme Court of India in the case of **CIT Gujarat Vs. Gujarat Fluoro Chemicals** {(2014) 42 taxmann.com 1(SC)) which held that Interest on interest under section 244A is not permitted. The Id DR also relied on the hon'ble High Court of Delhi in the case of **CIT Vs. Indian Farmer Fertilizer Co- Operative** ((2016) 71 taxmann.com 37 (Delhi)) Section 244A of the Income Tax Act, 1961 which followed suit.

7. The Id counsel of the assessee, with respect to ground of maintainability of appeal u/s 246A, relied on the following decisions to assert that order giving effect partakes the character of assessment order u/s 143(3) and is therefore appealable:

- 1.Caltex Oil Refining (India) Ltd v. CIT (1993) 202 ITR 375(Bom)
- 2.Empire Industries Ltd. v. CIT (Bombay) dated 27.03.1991
- 3.Kooka Sidhwa & Co. v. CIT (1964) 54 ITR 54(Calcutta)
- 4.CIT v. Warner Hindustan Ltd. (1979) 117 ITR 15(Andhra Pradesh)
- 5.Malnad Areca Marketing Co-operative Society Ltd., APMC Yard, Shivamogga v. ACIT (Banglore - Trib.) ITA 1315/Bang/2019

8. On the issue of the basis of calculation of amount of refund u/s 244A of refund, the Id AR of the assessee submitted that the AO, while calculating the refund u/s 244A, has first reduced the principal component of refund receivable with the partial refund

granted earlier. The assessee contends that the partial refund granted earlier should be adjusted first against the interest component of earlier refund and thereafter interest should be calculated on the balance amount of principal component of refund receivable. The assessee has placed before us the calculation of interest as per the assessee and pressed that the approach of the AO has resulted in short grant of refund.

S. No.	Particulars	Mechanism i.e., as per Ld. AO (A) (in Lakh)	Mechanism i.e., as per Assessee (B)(in Lakh)
1.	Amount Refundable i.e., principal components of the refund	4,512	4,512
2.	Interest under section 244A @0.5% (from Dec 2011 to Nov 2018 i.e., of 84 months)	1,894	1,894
3.	Part Refund received in Nov 2018	1,315	1,315
4.	Balance Refund Receivable a) Principal Component	3,197 (i.e., 4512 - 1315)	4,512
5.	b) Interest Component	1,895	579 (i.e., 1895 - 1315)
6.	Interest under section 244A @0.5% (from Dec 2018 to Mar 2019 i.e., of 4 months)	63 (i.e., 3197 x 0.5% x 4)	90 (i.e., 4512 x 0.5% x 4)

9. It is submitted that although no specific mechanism has been provided under the Income-tax Act, 1961 ('the Act'), which

specifies the mechanism of adjustment of Part Refund, the principle for adjustment can be borrowed from Explanation to sec. 140A(1) of the Act, that clearly specifies that the amount of tax paid falling short of the aggregate tax (i.e., tax, interest and late fee) must be adjusted in the following manner: First, it shall be adjusted with the amount of late fee; Thereafter, it shall be adjusted with the amount of interest; Balance (if any) shall be adjusted with the amount of tax. Reliance is placed upon the Hon'ble Jurisdictional High Court decision in the case of **India Trade Promotion Organisation v. CIT** [2013] 38 taxmann.com 233 (Delhi).

10. Relying on the decision of **India Trade Promotion Organisation** (supra), it is submitted that there would be no interest on interest. Distinguishing the case of **CIT v. Gujarat Fluro Chemicals** (supra), it is stated that the Hon'ble Supreme Court held that the decision of **Sandvik Asia Ltd. v. CIT** [(2006) 150 Taxman 591 (SC)], that allowed "interest on interest in case of exceptional delay in issuance of refund, is no more valid. However, in the instant facts, the Assessee is not seeking 'interest on interest'; instead, its claim was for interest on outstanding

principle (after fairly adjusting refund received against interest accrued till the date of grant of refund).

11. It is further submitted that in the following decision(s), the question of applicability of decision of Hon'ble Supreme Court in case of *CIT v. Gujarat Fluoro Chemicals* (supra) has been examined and held in favor of the taxpayer.

- India Trade Promotion Organization v. CIT [2013] 38 taxmann.com 233 (Delhi High Court) -Para 7 and 15
- Union Bank of India v. ACIT [2016] 72 taxmann.com 348 (Mumbai Tribunal)- Para 3.6.
- Nirma Ltd. v. DCIT [2025] 172 taxmann.com 429 (Ahmedabad Tribunal) - Para 15
- Grasim Industries Ltd. v. DCIT [2021] 123 taxmann.com 312 (Mumbai Tribunal) - Para 6

12. We have heard the rival submissions and have carefully perused the materials on record. The issue before us for adjudication is the twofold- whether the Order Giving Effect to the ITAT order is appealable u/s 246A and if yes, what is the method of calculation of refund, whether the partial refund issued earlier be first adjusted against the interest component or the principal component of refund of tax.

13. We find that the order appealed against is passed by the AO under section 254/154/260A/143(3) r.w.s. 144C of the Income Tax Act dated 06.08.2021 consequent upon the order passed by ITAT dated 29.08.2019. We find that the maintainability of appeal u/s 246A against order giving effect to the order of CIT(A) disallowing interest, has been decided by the Bombay High Court in the case of ***Caltex Oil Refining (India) Ltd v. CIT*** (1993) 202 ITR 375(Bom) and ***Empire Industries Ltd. v. CIT (Bombay)*** dated 27.03.1991 in favour of the assessee holding that the order giving effect partakes the character of assessment order u/s 143(3) and is therefore appealable u/s 246(1)(f). Similar ratio was laid down by the Calcutta High Court in the case of ***Kooka Sidhwa & Co. v. CIT*** (1964) 54 ITR 54(Calcutta). We further note that the order giving effect is passed u/s 254/154 of the Act making it appealable order u/s 246A(1)(c) of the Act. In view of the above judicial pronouncements, we hold that the order giving effect to the order of ITAT, is appealable. Ground 1 to 4 are accordingly dismissed.

14. With respect to the issue of calculation of amount of refund u/s 244A of the Act, we find that there is no specific mechanism available for adjusting the part refund with principle first or interest first under the Income-tax Act, 1961. The Hon'ble

Jurisdictional High Court engaged with this issue in the case of ***India Trade Promotion Organisation v. CIT*** ('the Act'), taking support from the provisions of Explanation to section 140A(1), held that the amount paid shall first be adjusted towards interest payable and the balance, if any, shall be adjusted towards the tax payable. Relevant extract of the same is reproduced herein below:

"16. The aforesaid manner of computation is not only applicable to cases where Revenue has to pay interest on refund, but is equally applied when an assessee is in default and interest is payable under Section 220(2) of the Act. Interest payable under Section 234B and 234C become part of the demand notice issued under Section 156 and it is on this amount, i.e., the tax payable plus interest payable under Sections 234B and 234C that interest under Section 220(2) is calculated from the date mentioned in the notice of demand till the date of actual payment. Under Explanation to Section 140A(1), it is stipulated where the amount paid by an assessee under self-assessment falls short of the aggregate amount of tax and interest aforesaid, the amount paid shall first be adjusted towards the interest payable and the balance, if any, shall be adjusted towards the tax payable. The interpretation given by us follows the same principle when Revenue defaults and makes part payment of the amount refundable. The aforesaid interpretation also ensures that the Assessing Officer/Revenue refund the entire amount, which is due and payable, including interest payable under Section 244A. It discourages part payment. There is no other provision under the Act under which an Assessing Officer/Revenue can be made liable to pay interest when part payment is made and the entire amount, which is refundable is not paid to the assessee. Otherwise the Assessing Officer/Revenue can

refund the principal amount and not pay the interest component under Section 244A for an unlimited period with impunity and without any sanction, which would amount to granting premium to a non-compliance of law....."

15. We now deal with Revenue's arguments. We find that the decisions of hon'ble Supreme Court in the case of ***CIT Gujarat Vs. Gujarat Fluoro Chemicals*** and the hon'ble High Court of Delhi in the case of ***CIT Vs. Indian Farmer Fertilizer Co- Operative*** (supra) addresses the issue of interest on interest. In the former case, the hon'ble Supreme Court laid down the law that Interest on interest under section 244A is not permitted. The hon'ble Delhi Court in the latter decision, referring to the decision of Supreme Court in ***H.E.G.Ltd*** 324 ITR 331 and ***India Trade Promotion Organisation v. CIT*** (supra), and following the hon'ble Supreme Court decision in ***CIT Gujarat Vs. Gujarat Fluoro Chemicals*** (supra), held that interest on interest payable under section 244A is not permissible.

16. In the instant case however, we find that issue is not payment of interest on interest. Rather the issue is mechanism of adjustment of Part Refund; whether the partial refund granted earlier should be adjusted first against the principal component of refund receivable and thereafter the balance amount be adjusted

against the interest due on the principal component of earlier refund. We find that the hon'ble Jurisdictional High Court decision in the case of *India Trade Promotion Organisation v. CIT* (supra) has laid down the manner of adjustment of part refund granted earlier: the partial refund be adjustment first with interest due on the principal component and thereafter adjustment with the principal component of refund. We are therefore of the considered view that no interference is warranted in the decision of the CIT(A) that the partial refund granted in past be adjusted first with the interest refundable (till such date) and thereafter the balance amount be adjusted with the principal component of tax refundable to the assessee. The ground 5 is dismissed.

5580/Del/2024 (AY 2008-09)

17. The facts are identical to the facts of the case discussed above. The decision rendered therein applies mutatis mutandis to the facts of the instant case also.

18. In the result the appeal of the Revenue in 5416/Del/2024 and 5580/Del/2024 are dismissed.

Order pronounced in the open court on 16/07/2026.

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Dated: 16/07/2026
A K Keot

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi