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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8176 OF 2009
(Arising out of S.L.P.(C) No.18045/2009)

Commissioner of Income Tax, Bhopal

...Appellant(s)

Versus

M/s. H.E.G. Limited

...Respondent(s)

W I T H

CIVIL APPEAL Nos.8177 & 8187 OF 2009
(Arising out of S.L.P.(C) No.18046/2009 &
S.L.P.(C) No. 34268/2009 (CC 10437/2009)

O R D E R

Mr. Ajay Vohra, learned counsel, appears for the
respondent-assessee.

Delay condoned in S.L.P.(C) No...CC 10437/2009.

Leave granted.

In income tax matters, it is well settled that if
the question is not properly framed, then, at times,
confusion arises resulting in wrong answers. The present
batch of Civil Appeals is an illustration of the
proposition mentioned herein-above.

In the synopsis to the Civil Appeal arising out of
S.L.P.(C) No.18045/2009, the question raised by the
Department is whether the assessee was entitled to claim
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interest on interest under the provisions of Section 244A
of the Income Tax Act, 1961. In our view, on facts, the
question framed was totally erroneous.

Annexure P-1 is Income-tax Computation in Civil
appeal arising from S.L.P.(C) No.18045/2009. On going
through the Computation, we find that during the
Assessment Year 1993-1994, the amount paid by the
assessee towards TDS was Rs.45,73,528/-. The Tax paid
after Original Assessment was Rs.1,71,00,320/-. The
total of TDS amounting to Rs.45,73,528/- plus Tax paid
after Original Assessment of Rs.1,71,00,320/- stood at

Rs.2,16,73,848/- . In other words, the total tax paid had two components, viz., TDS + Tax paid after Original Assessment. The respondent was entitled to the refund of Rs.2,16,73,848/- (consisting of Rs.1,71,00,320/- and Rs.45,73,528/- which payment was made after 57 months and which is the only item in dispute).

The assessee claimed statutory interest for delayed refund of Rs.45,73,528/- for 57 months between 1.4.1993 and 31.12.1997 in terms of Section 244A of the Income Tax Act. Therefore, this is not a case where the assessee is claiming compound interest or interest on interest as is sought to be made out in the civil appeals filed by the Department.

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The next question which we are required to answer is - What is the meaning of the words "refund of any amount becomes due to the assessee" in Section 244A? In the present case, as stated above, there are two components of the tax paid by the assessee for which the assessee was granted Refund, namely TDS of Rs.45,73,528/- and Tax paid after Original Assessment of Rs.1,71,00,320/-. The Department contends that the words "any amount" will not include the Interest which accrued to the respondent for not refunding Rs.45,73,528/- for 57 months. We see no merit in this argument. The interest component will partake of the character of the "amount due" under Section 244A. It becomes an integral part of Rs.45,73,528/- which is not paid for 57 months after the said amount became due and payable. As can be seen from the facts narrated above, this is the case of short payment by the Department and it is in this way that the assessee claims interest under Section 244A of the Income Tax Act. Therefore, on both the afore-stated grounds, we are of the view that the assessee was entitled to

S.L.P.(C) Nos.18045, 18046 of 2009
(With office report)(For final disposal)

S.L.P.(C)...CC NO. 10437 of 2009
(With appln(s) for c/delay in filing SLP and office report)
(For directions)

Date: 03/12/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr. B. Bhattacharya, ASG.
Mr. Rahul Kaushik, Adv.
Mr. Rupesh Kumar, Adv.
Mr. Mohd. Mannan, Adv.
Mr. B.V. Balaram Das, Adv.

For Respondent(s) Mr. Santhanam, Adv.
Ms. Radha Rangaswamy, Adv.

in SLP 18118/09: 5
Mr. Ankur Saigal, Adv.
Ms. Bina Gupta, Adv.
Mr. Gaurav Singh, Adv.

For Respondent(s)
in SLP 22331/08: Mr. Karan Lahiri, Adv.
Mr. Ejaz Maqbool, Adv.
Ms. Garima Kapoor, Adv.
Mr. Faraz Khan, Adv.

in SLP 18045, | Mr. Ajay Vohra, Adv.
18046 of 2009 & | Ms. Kavita Jha, Adv.
CC 10437/09: | Mr. Sandeep S. Karhail, Adv.

UPON hearing counsel the Court made the following
O R D E R

In S.L.P.(C) Nos.16877/08, 22331/08 & 18118/09:

Delay condoned.

The Special Leave Petitions are dismissed.

In S.L.P.(C) Nos.18045/09, 18046/09 & CC 10437/09:

Mr. Ajay Vohra, learned counsel, appears for the
respondent-assessee.

Delay condoned in SLP(C)...CC 10437/09.

Leave granted.

The Civil Appeals are dismissed in terms of the
signed order, with no order as to costs.

(N. ANNAPURNA)
COURT MASTER

(MADHU SAXENA)
COURT MASTER

(Signed order in S.L.P.(C) Nos.18045/09, 18046/09 &
CC 10437/09 is placed on the file)