

Assessee eligible to get interest on refund arising due to recomputation of income by AO: HC

Facts of case - PCIT v. Punjab & Sind Bank - [2022] (Delhi)

Assessee-Bank filed its return of income for the relevant assessment year. During the assessment, Assessing Officer (AO) raised demand by increasing the total income of the assessee. The said demand was paid by the assessee along with interest under sections 220 and 234D.

However, upon subsequent recomputation of the income, the income of the assessee was reduced after setting off brought forward losses. Due to the reduction of total income, the demand was found incorrect and the assessee was entitled to get a refund of the sum deposited as interest.

The assessee contended that interest on the refund under section 244A was not granted on such refund and consequently filed an appeal before CIT(A). The CIT (A) dismissed the appeal on the ground that the interest demanded constitutes "interest on interest".

However, the Tribunal allowed the assessee's request. The matter reached the Delhi High Court.

Decision of the case:

The High Court held that the contention of the revenue to consider the interest demanded by the assessee as "interest on interest" is factually incorrect. The amount refunded to the assessee does not bear the character of interest in the hands of the assessee as defined under section 2(28A).

Section 2(28A) states that interest is referred to as interest for the money borrowed or debt incurred and any service fees in respect of such money borrowed or debt incurred. Therefore, the amount in the hands of the assessee cannot be considered as interest but as a debt owed to it by the revenue. Thus, the assessee is demanding interest on such debt and not interest on interest.

The right to interest follows whenever money has been received by a party is to be refunded. Since there is no specific provision for payment of interest on the amount of excess tax collected by revenue, the government cannot waive off its apparent obligation to reimburse the monies along with interest for the period of undue retention.

Accordingly, the assessee's appeal was allowed and it was entitled to the interest amount due on the amount for the retention period.