

Interest on IT refund is to be taxed by spreading it over the years to which it relates, rules HC

Summary – The High Court of Andhra Pradesh in a recent case of M. Jaffer Saheb, (the Assessee) held that interest on refund accrued is chargeable to tax in respective years for which same was paid

Facts

- For the assessment year 1982-83, assessment of the assessee was completed with substantial additions raising a huge demand.
- The assessee paid the demanded tax and thereafter availed the appellate remedies and in that process the Appellate Tribunal had finally passed an order granting substantial relief to the assessee on 16-6-1989.
- Thereafter, the Assessing Officer gave effect to the order of the Tribunal by order dated 18.9.1989, thereby refunding the excess amount paid along with interest. In that process, the assessee received interest for the period 30.10.1985 to 31.08.1989. The Assessing Officer brought to tax the entire amount in the assessment year 1990-91 ignoring the claim of the assessee to spread over the said amount for the assessment years starting with assessment years 1985-86 to 1988-89.
- On appeal, the Commissioner (Appeals) allowed the claim of the assessee.
- On revenue's appeal the Tribunal reversed the order of the Commissioner (Appeals) and restored the assessment order passed by the Assessing Officer.
- On appeal to the High Court:

Held

- A close scrutiny of sections 237 and 240 would reveal that the statutory right is conferred on the assessee to get refund of the excess tax paid and such refund shall be made to the assessee even without his making any claim in that behalf. Section 244A entitles the assessee to get interest on the refund amount and such interest is payable from the date of payment of tax or payment of penalty till refund is granted. It is clear from the statutory provisions as applicable to the relevant assessment years that there is no requirement of assessee making a claim either for refund or for interest.
- Once the income has legally accrued to the assessee, i.e., the assessee has acquired a right to receive the same, though its valuation may be postponed to future date, the determination or quantification of the amount does not postpone the accrual. In other words, if the right has legally accrued to the assessee, the right should be deemed to have accrued in the relevant year even though the dispute as to right is settled in the later year, by the one or the other of the authorities in the hierarchy.

- The reading of sections 237, 240 and 244(1A) casts a duty on the Assessing Officer to charge that much of tax which the assessee is liable to pay and mandates the refund of the excess amount along with interest. The hierarchy of appeals provided are only to ensure that the tax authorities adhere to strict rules of taxation and the statutory provisions. Even the final order, that may be passed by the higher authority in the hierarchy of authorities provided under statute, is also an order of assessment only for the simple reason that the final order passed by the appellate authorities is nothing but correction of the original assessment order, which was erroneous.
- Thus, the Tribunal was not correct in law in refusing to accept the contention of the assessee that interest on the refund accrued from the previous year relevant to the assessment year 1982-83 and was chargeable to tax in the respective years for which same was paid.