

Assessee gets interest on refund arising due to foreign tax credit

Summary – The High Court of Bombay in a recent case of Tech. Mahindra Ltd., (the Assessee) held that Interest under section 244A is payable on refund arising on account of Double Taxation Relief under section 90

Facts

- As the assessment resulted into refund, the Assessing Officer allowed interest under section 244A to assessee at certain part of refund. However, according to him no interest under section 244A was allowable on DTAA relief under section 90.
- The Commissioner (Appeals) allowed assessee's appeal after observing that DTAA relief by way of credit available/granted to the assessee under section 90 goes on to reduce the tax payable and after determination of tax payable and to the extent tax had been paid in advance or by way of deduction at source, was refunded, interest in terms of section 244A would be allowable.
- The Tribunal upheld the order of the Commissioner (Appeals) and agreed with his observation entirely.
- On revenue's appeal:

Held

- Both the Commissioner (Appeals) and the Tribunal have while examining the claim for interest on refund granted, considered the fact that the relief under section 90 is available in respect of the income tax which is payable both in India as well as in the other countries with which India has DTAA. Therefore, relief under section 90 is to be allowed while computing the tax liability in India by virtue of credit being given to the extent that tax has been paid abroad. Therefore, the tax payable is to be computed on the income to be assessed. Thereafter the credit which is available to the assessee in view of DTAA is to be taken into account and if there is any excess which the assessee has paid into the Indian Treasury, then, he is entitled to the refund of the same which would also carry interest in terms of section 244A.
- Thus, the proposed question does not give rise to any substantial question of law.
- Accordingly, the appeal is dismissed.