

Sec. 234A/B/C interest not to be waived if assessee declared LTCG instead of STCG in ITR: HC

Summary – The High Court of Madras in a recent case of Tushin T.Mehta, (the Assessee) held that Sec. 234A/B/C interest is not to be waived if assessee declared LTCG instead of STCG in ITR.

Facts

- Assessee claimed long term capital gains on sale of property made during that year.
- Assessing Officer however held that it was short term capital gain and accordingly determined the total income for said assessment year and demanded total net tax payable. The Assessing Officer also charged interest under sections 234A, 234B and 234C.
- Assessee filed a waiver petition under section 119(2) (a) for waiver of interest.

Held

- Sections 234A, 234B and 234C provide for levy of interest for delay/default/deferment in payment of advance tax/income tax etc.
- Rejection of assessee's contention of LTCG against STCG as correctly held by the AO cannot be characterised as an unavoidable circumstance. The expression 'unavoidable circumstance' cannot encompass outcomes of judicial and quasi judicial proceedings.
- The present case falls outside the scope of the expression 'unavoidable circumstance'. The impugned order is therefore sustained.