

Order of HC which was relied by ITAT to give direction in favour of assessee cannot be dissected by AO

Summary – The High Court of Bombay in a recent case of Tata Communications Ltd., (the Assessee) held that Order of HC which was relied by ITAT to give direction in favour of assessee cannot be dissected by AO

Facts

- The assessee-company had a refund claim from the Department comprising of tax deducted at source along with interest.
- The issue of correct computation of interest payable under section 244A was decided by the Tribunal in favour of assessee by giving certain directions to the Assessing Officer to compute and pay such interest in terms of order passed by High Court.
- The Assessing Officer passed his impugned order pursuant to such directions of the Tribunal. In such order he did not agree with the contention of the assessee that interest as per the aforesaid decision of High Court was not payable.
- On writ:

Held

- The HC held that the Tribunal has already examined the question of interest payable to the assessee under section 244A and its decision lays down certain parameters for payment of such interest.
- The Assessing Officer was required to compute the interest under section 244A following the principles laid down by the High Court in a settled case and it was incorrect on part of the AO to thereafter dissect the ratio of the decision of the High court settled case and come to the conclusion that further interest under section 244A is not payable.
- The AO was required to give effect to the directions of the Tribunal and the question of payment of interest had already been decided by the Tribunal in favour of assessee.
- Hence the HC set aside the impugned order of AO and directed him to compute the interest payable to the assessee under section 244A by applying the principles laid down by the settled High court case as referred by the Tribunal.
- Petition is disposed of accordingly.