FORM NO.(J2)

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

Present:
Hon'ble Justice Girish Chandra Gupta
And
Hon'ble Justice Asha Arora

ITA No.526 OF 2004

COMMISSIONER OF INCOME TAX, KOLKATA - I
Versus
BIRLA CORPORATION LIMITED

Advocate for the Appellant: Md. Nizumuddin, Adv.

Advocate for the Respondent: Mr. J.P. Khaitan, Sr Adv.
Mr. Sanjay Bhowmick, Adv.
Mr. C. S. Das, Adv.

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Heard on: 05.01.2016

Judgment delivered on: 2nd February, 2016.

GIRISH CHANDRA GUPTA J. The revenue has come up in appeal u/s.260A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') against a judgment and order dated 22nd March, 2004 passed by the ITAT 'A' bench, Kolkata in ITA No.383 and 384 (Kol) of 2003 pertaining to the assessment years 1992-93 and 1993-94. The questions which arise for determination are as follows:-

(I) Whether in the facts and circumstances of the case the Tribunal was justified in law in granting interest to the assessee u/s.244A of Income

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Tax Act, 1961 on refund arising due to excess payment on self assessment of tax in view of Section 244A(1)(b), read with the explanation thereto, of Income Tax Act, 1961?

(II) Whether the explanation to Section 244A(1)(b) of Income Tax Act, 1961 bars payment of interest upon refund of excess payment on self-assessment?

(III) Whether grant of interest to the assessee on refund arising due to excess payment on self assessment is contemplated by the Income Tax Act, 1961?

(IV) Whether in the facts and circumstances of the case the Tribunal was justified in granting the aforesaid relief to the assessee on the ground that the issue was debatable?

The facts and circumstances briefly stated are as follows:-

The assessee paid tax in respect of the relevant assessment years including self-assessment tax u/s.140A of the Act. Subsequently, the assessment u/s.143(3) was completed for both the assessment years 1992-93 and 1993-94 and certain additions were made. The assessee preferred an appeal before the Commissioner of Income Tax (Appeals) (hereinafter referred to as 'CIT(A)') who allowed certain relief resulting in an order for refund. While giving effect to the said order of the learned CIT(A), an order for refund along with interest was allowed to the assessee for both the years under consideration.

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Subsequently, the assessing officer issued a notice u/s.154 and the interest previously allowed u/s.244A(1)(b) on the refund of excess self assessment tax was withdrawn. In his order u/s.154 the assessing officer held that interest u/s.244A(1)(a) is not payable on refund of excess self assessment tax whereas s.244A(1)(b) is not attracted in view of the explanation appended thereto. He relied on the explanation to Clause (b) which provides that the "date of payment of tax or penalty" u/s.244A(1)(b) means the date on and from which the amount of tax or penalty specified in the notice of demand issued u/s.156 is paid in excess of such demand. The assessing officer, therefore held that "since any tax paid after issue of notice of demand does not include self-assessment tax, the interest is not payable on excess payment u/s. 140A."

The assessee preferred an appeal against the order of the assessing officer before the CIT(A). The CIT(A) reversed the order of the assessing officer by an order dated 20th November 2002 relying upon a judgement of Delhi High Court in the case of CIT –Vs- MMTC Ltd. reported in 246 ITR 725 and held that the provisions of Section 154 could not be applied to the present case. The revenue unsuccessfully appealed before the Tribunal, which also relied upon CIT -Vs- MMTC (supra) and upheld the order of CIT(A). The revenue is, as such, in appeal before this Court against the order of the Tribunal dated 22nd March 2004.

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For better appreciation of the rival contentions, it is necessary to reproduce the relevant portion of Section 244A of the Act, which reads as under:-

"244-A. Interest on refunds.—(1) Where refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely:—

(a) where the refund is out of any tax paid u/s. 115-WJ or collected at source u/s. 206-C or paid by way of advance tax or treated as paid u/s. 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period from the 1st day of April of the assessment year to the date on which the refund is granted:

Provided that no interest shall be payable if the amount of refund is less than ten per cent of the tax as determined under sub-section (1) of Section 115-WE or sub-section (1) of Section 143 or on regular assessment;

(b) in any other case, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of tax or penalty to the date on which the refund is granted.

Explanation.—For the purposes of this clause, "date of payment of tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand issued u/s. 156 is paid in excess of such demand.

(2)…

(3)…

(4)…"

Mr. J. P. Khaitan learned senior advocate appearing for the assessee contended as follows:

(I) that the interest is payable on the refund of the excess self-assessment tax under Clause (b) of Sub-Section (1) of Section 244A which should be construed liberally and in favour of the

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assessee. He relied on the case of Union of India –Vs- Tata Chemicals Ltd. reported in (2014) 6 SCC 335;

(II) that section 244A(1)(a) provides for interest on refunds out of Advance tax and tax deducted at source while Section 244A(1)(b) is residual in nature and provides for interest on refund in other cases including excess tax paid on self assessment u/s.140A. He relied on the CBDT Circular No. 549 dated 30 October 1989;

(III) that the provisions of s.244A(1)(b) mandate that the revenue would pay interest on the amount refunded for the period commencing from the date when the tax was paid to the date when the refund is granted;

(IV) that the explanation to Section 244A(1)(b) would have no application to the instant case because the self assessment tax u/s.140A is not paid consequent to any notice of demand issued u/s.156 of the Act and

(V) both the Tribunal and the CIT(A) have rightly set aside the order of the assessing officer by holding that the issue was debatable and outside the scope of Section 154. He contended that there is no clear mandate in Section 244A by which the assessing officer can deny interest to the assessee on the excess amount paid u/s.140A of the Act. Thus according to him there was no "mistake apparent from the record" which could have been rectified in exercise of power u/s 154.

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Mr. Nizamuddin learned advocate appearing for the revenue contended as follows:-

(I) that the payment of interest on refund is governed by section 244A of the Act;

(II) that Clause (a) of subsection (1) of section 244A is applicable only to the circumstances enumerated under the clause and the case of the assessee does not fall in the four corners of the said provision;

(III) that Clause (b) of subsection (1) of Section 244A is also not attracted in view of the explanation appended to the said clause. The explanation, clearly mentions that such excess tax must have been paid only after the department had computed the income and issued a demand notice u/s.156 of the Act. According to the explanation the "date of payment of tax or penalty" under Clause (b) means the date on and from which the amount of tax or penalty specified in the notice of demand issued u/s.156 is paid in excess of such demand. Therefore interest would not be payable on the refund of excess self-assessment tax, since the same was not paid consequent to any notice of demand u/s.156 of the Act;

(IV) that the revenue is not obliged to pay any interest on the refund of excess self assessment tax as the statute does not provide for

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any such interest. He relied on CIT v. Engineers India Ltd. reported in [2015] 373 ITR 377 (Delhi) and

(V) that the Act envisages the circumstances where interest may be granted on refund of excess tax and interest cannot be granted otherwise than in accordance with the statutory scheme. Hence there can be no debate as regards the question whether in a given situation interest can be granted on a refund of excess self-assessment tax. Thus the learned tribunal has erred in holding that the issue is debatable and beyond the scope of s.154 of the Act.

We have heard the rival contentions advanced by the learned counsel for the parties and carefully perused the record.

In the case of Tata Chemicals (supra) the issue before the Supreme Court was whether the resident/deductor is also entitled to interest on refund of excess deduction or erroneous deduction of tax at source u/s. 195 of the Act. In this case, the assessee was an Indian Company engaged in manufacture of fertilizer. The assessee engaged the services of two technicians from a foreign company. The said foreign company raised an invoice for the services rendered by the technicians, which included reimbursement for some expenses incurred by them. The assessee approached the Income Tax Officer u/s. 195(2) of the Act to determine the percentage of tax, which should be withheld from the amount payable to the foreign company. The assessing officer passed a special order u/s. 195(2)

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directing the assessee to deduct 20% of the amount payable to the foreign company before remitting the same. The assessee, accordingly made deduction and credited the amount in favour of the revenue. The assessee preferred an appeal before the CIT(A) against the aforesaid order of the assessing officer. The CIT(A) concluded that the reimbursement of expenses was not part of the income open for deduction of tax at source u/s. 195 of the Act and directed refund of the tax. The assessee thereafter claimed refund of the said amount along with the interest u/s. 244A of the Act. The assessing officer refused to grant interest on the amount of refund. CIT(A) upheld the order of the assessing officer on the following grounds:-

1. that circular number 769 and 790 issued by CBDT specifically deny the benefit of interest u/s 244A on refund to the deductor/resident; and
2. that a conjoint reading of section 156 and the explanation appended to section 244A(1)(b) would indicate that the amount refunded to the deductor/resident cannot be equated to the refund of the amount(s) envisaged u/s. 244A(1)(b) of the Act, wherein only the interest on refund of excess payment made u/s. 156 of the Act pursuant to a notice of demand issued on account of post-assessment tax is contemplated and not interest on refund of tax deposited under self-assessment as in the instant case.

The ITAT reversed the order of the CIT(A) by holding that the tax was paid by the deductor/ resident pursuant to an order passed u/s. 195 (2) of

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the Act and the refund was ordered u/s. 240 of the Act, therefore, the provisions of Section 244A(1)(b) are clearly attracted and the revenue is obliged to pay interest on the aforesaid amount of refund. High Court refused to interfere with the order of the tribunal. The revenue challenged the order before the Supreme Court. The Apex Court dismissed the appeal and recognised the right of the deductor/resident to receive interest u/s.244A on the amount of refund.

The Apex Court held that the amount paid was held by the Government till a direction was issued by the appellate authority to refund the same, therefore, it should carry interest as a matter of course. Furthermore, it was held that interest was in the nature of compensation for use and retention of money collected unauthorisedly by the department. In this regard, the Apex Court held as follows:-

"37. A "tax refund" is a refund of taxes when the tax liability is less than the tax paid. As per the old section an assessee was entitled for payment of interest on the amount of taxes refunded pursuant to an order passed under the Act, including the order passed in an appeal. In the present fact scenario, the deductor/assessee had paid taxes pursuant to a special order passed by the assessing officer/Income Tax Officer. In the appeal filed against the said order the assessee has succeeded and a direction is issued by the appellate authority to refund the tax paid. The amount paid by the resident/deductor was retained by the Government till a direction was issued by the appellate authority to refund the same. When the said amount is refunded it should carry interest in the matter of course. As held by the Courts while awarding interest, it is a kind of compensation of use and retention of the money collected unauthorisedly by the Department. When the collection is illegal, there is corresponding obligation on the Revenue to refund such amount with interest inasmuch as they have retained and enjoyed the money deposited. Even the Department has understood the object behind insertion of

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Section 244-A, as that, an assessee is entitled to payment of interest for money remaining with the Government which would be refunded. There is no reason to restrict the same to an assessee only without extending the similar benefit to a resident/deductor who has deducted tax at source and deposited the same before remitting the amount payable to a non-resident/foreign company."

The Apex Court further held that refund due and payable to the assessee is debt owed and payable by the revenue. Furthermore, it was held that merely because there is no express statutory provision for payment of interest on refund of excess amount collected by the Revenue, the Government cannot evade its obligation to refund the money with accrued interest for the period of undue retention. In this regard the Apex Court held as follows**:-**

"38. Providing for payment of interest in case of refund of amounts paid as tax or deemed tax or advance tax is a method now statutorily adopted by fiscal legislation to ensure that the aforesaid amount of tax which has been duly paid in prescribed time and provisions in that behalf form part of the recovery machinery provided in a taxing statute. Refund due and payable to the assessee is debt-owed and payable by the Revenue. The Government, there-being no express statutory provision for withholding payment of interest on the refund of excess amount/tax collected by the Revenue, cannot shrug off its apparent obligation to reimburse the deductors lawful monies with the accrued interest for the period of undue retention of such monies. The State having received the money without right, and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest. Whenever money has been received by a party which ex ae quo et bono ought to be refunded, the right to interest follows, as a matter of course."

The Apex court also held that explanation to Clause (b) of Sub-section (1) of Section 244A will not be applicable where payment is not made pursuant to any notice u/s.156. Furthermore, Clause (b) of Section 244A(1) is residual in nature and prescribes interest on refund from the date of payment of tax in cases which are not covered by Clause (a) of Section 244A (1). In this regard the Apex Court held as follows:-

"39. In the present case, it is not in doubt that the payment of tax made by the resident/depositor is in excess and the department chooses to refund the excess payment of tax to the depositor. We have held that the interest requires to be paid on such refunds. The catechise is from what date interest is payable, since the present case does not fall either under clause (a) or (b) of Section 244-A of the Act. In the absence of an express provision as contained in clause (a), it cannot be said that the interest is payable from the 1st of April of the assessment year. Simultaneously, since the said payment is not made pursuant to a notice issued under Section 156 of the Act, Explanation to clause (b) specifically referred to as "in any other case", the interest is payable from the date of payment of tax. The sequel of our discussion is the resident/deductor is entitled not only to the refund of tax deposited u/s. 195(2) of the Act, but has to be refunded with interest from the date of payment of such tax."

The contention of the Revenue that Clause (b) is not applicable in view of the explanation which only admits of interest on refund of any amount paid in excess consequent to notice of demand issued u/s. 156 was answered as follows by the Apex Court:-

"since the said payment is not made pursuant to a notice issued u/s. 156 of the Act, Explanation to clause (b) has no application."

The Bombay High Court in Stockholding Corporation of India –Vs- N.C. Tewari, CIT reported in (2015) 373 ITR 282 (Bom.) has elaborately dealt

with the question of interest on refund of excess self assessment tax and held as follows:-

"7…On a bare analysis of Section 244A(1) of the Act it is clear that amount paid by the petitioner as tax on self assessment would not stand covered by Section 244A(1)(a) of the Act. This is so as it is neither the payment of tax by way of advance tax or by way of tax deducted at source. ***Thus tax paid on self assessment would fall u/s. 244A(1)(b) of the Act, i.e. a residuary clause covering refunds of amount not falling u/s. 244A(1) of the Act. The revenue contends that in the absence of tax on self assessment finding mention in Section 244A(1)(a) of the Act, no interest is payable u/s. 244A(1) of the Act and Section 244A(1)(b) of the Act would have no application. This contention is opposed to the meaning of the provision disclosed even on a bare reading. If the tax paid is not covered by clause (a) of Section 244A(1), it falls within clause (b), which is a residuary clause.*** *Besides, this contention stands negatived by the CBDT Circular bearing No. 549 dated 31 October 1989 wherein reference is made to Section 244A and para 11.4 thereof reads as under (see [1990] 182 ITR (St) 1, 49):*

"11.4 The provisions of the new section 244A are as under:-

(i) Sub-section (1) provides that where in pursuance of any order passed under this Act, refund of any amount becomes due to the assessee then-

(a) if the refund is out of any advance tax paid or tax deducted at source during the financial year immediately preceding the assessment year, interest shall be payable for the period starting from the 1st April of the assessment year and on the date of grant of the refund. No interest shall, however, be payable, if the amount of refund is less than 10 per cent of the tax determined on regular assessment;

(b) ***if the refund is out of any tax, other than advance tax or tax deducted at source or penalty, interest shall be payable for the period starting from the date of payment of such tax or penalty and ending on the date of the grant of the refund.*** *(Refer to example III in para 11.8)."*

(Emphasis supplied)

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The inferences to be drawn ***from the Board's circular is clear that if refund is out of any tax other than out of advance-tax or tax deducted at source, interest shall be payable from the date of payment of tax and ending on the date of the grant of refund. It is to be noted that nowhere does the CBDT even remotely suggest that interest is not payable by the Department on self-assessment tax.*** *Moreover, the amount paid u/s. 140A of the Act on self assessment is an amount payable as and by way of the tax after noticing that there is likely to be shortfall in the taxes already paid. Thus this payment is considered to be a tax under the aforesaid provision.*

8. The contention of revenue is that no interest at all is payable to the petitioner u/s. 244A(1)(a) and (b) of the Act unless the amounts have been paid as tax. It would not cover cases where the payment is gratuitous as is evident from the fact that the petitioner in its computation after paying tax on self assessment of Rs. 2.60 crores seeks a refund of Rs. 47 lacs. According to him it has to be refund of amounts paid as tax. ***We find that Section 244A(1) of the Act commences with the word "when refund of any amount becomes due to the assessee under this Act …. Sub-clause (b) thereof commences with the words "in any other case….". The words used in Section 244A(1) of the Act are clear inasmuch as it provides that refund of any amount that become due to any assessee under the Act will entitle the assessee to interest.*** *In any case in the present facts, the amount on which the refund is being claimed was originally paid as tax on self-assessment u/s. 140A of the Act and evidence of the same in the form of challan was enclosed to the Return of Income. In fact when the Assessing Officer passed the Assessment Order on 31 December 1996, he accepted the entire amount paid as tax on self assessment as a payment of tax. One more feature to be noticed is that when any refund becomes due to an assessee out of tax paid, it becomes so only after holding that it is not the tax payable. Thus we find no substance in the first objection of the revenue that the amount paid as tax on self assessment is not tax and therefore no interest can be granted on refund of such amounts which are not tax."*

As regards the contention that interest on refund u/s.244A(1)(b) is payable only in cases where the excess tax is paid in consequence to a demand notice u/s.156 their lordships in Stock Holding Corporation (supra) have held as follows:-

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"11. The further submission of Mr. Pinto that in view of the Explanation to Section 244A(1)(b) of the Act the same would apply only when the amounts are paid consequent to a notice issued u/s. 156 of the Act. Not otherwise. This very submission was advanced by the revenue before the Apex Court in the case of Tata Chemicals (supra). In fact, the first Appellate Authority in the case of Tata Chemicals (supra) had rejected the petitioner's claim for interest on the ground that in view of the Explanation appended to Section 244A(b) of the Act, refund of any amount under the aforesaid provision could only be in respect of refund of excess payment made u/s. 156 of the Act. The aforesaid interpretation was negatived in the second appeal by the Tribunal as well as by the High Court and the Apex Court.

12. ***Similarly, the next contention urged on behalf of the revenue that the payment of interest should only be made from the date of notice u/s. 156 of the Act is issued to the petitioner in terms of Explanation to Section 244A(1)(b) of the Act cannot be accepted for two reasons. Firstly, as held by the Supreme Court in Tata Chemicals (supra), the Explanation would have effect only where payments of tax have been made pursuant to notice u/s. 156 of the Act. In this case, the payment has not been made pursuant to any notice of demand but prior to the filing of the return of income in accordance with Section 140A of the Act. Secondly, the provisions of Section 244A(1)(b) very clearly mandate that the revenue would pay interest on the amount refunded for the period commencing from the date the payment of tax is made to the revenue upto the date when refund is granted to the revenue. Thus, the submission of Mr. Pinto that the interest is payable not from the date of payment but from the date of demand notice u/s. 156 of the Act cannot be accepted as otherwise the legislation would have so provided in Section 244A 1(b) of the Act, rather then having provided from the date of payment of the tax."***

The object and reasons for introduction of Section 244A was clarified by the CBDT in its circular no.549 dated 31st October, 1989. Relevant paragraphs of the circular are as follows:-

"11.2 Insertion of a new Section 244-A in lieu of Sections 214, 243 and 244, under the provisions of Section 214, interest was payable to the assessees on any excess advance tax paid by him in a financial year from the 1st day of April next following the said financial year to the date of regular

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assessment. In case the refund was not granted within three months from the date of the month in which the regular assessment was completed, Section 243 provided for further payment of interest. U/s. 244, interest was payable to the assessee for delay in payment of refund as a result of an order passed in appeal, etc., from the date following after the expiry of three months from the end of the month in which such order was passed to the date on which refund was granted. The rate of interest under all the three sections was 15% per annum.

11.3. These provisions, apart from being complicated left certain gaps for which interest was not paid by the Department to the assessee for the money remaining with the Government. ***To remove this inequity****, as also to simplify the provisions in this regard, the Amending Act, 1987, has inserted a new Section 244-A in the Income Tax Act, applicable from the assessment year 1989-1990 and onwards which contains all the provisions for payment of interest by the Department for delay in the grant of refunds. The rate of interest has been increased from the earlier 15% per annum to 1.5% per month or part of a month, comprised in the period of delay in the grant of refund. The Amending Act, 1987, has also amended Sections 214, 243 and 244 to provide that the provisions of these sections shall not apply to the Assessment Year 1989-1990 or any subsequent assessment years."*

(Emphasis supplied)

The Supreme Court in Tata Chemicals (supra) clarified the intent of the legislature and the object behind the Section 244A in the following words:-

"30. ***The refund becomes due when tax deducted at source, advance tax paid, self-assessment tax paid and tax paid on regular assessment exceeds tax chargeable for the year as a result of an order passed in appeal or other proceedings under the Act.*** *When refund is of any advance tax (including tax deducted/collected at source), interest is payable for the period starting from the first day of the assessment year to the date of grant of refund. No interest is, however, payable if the excess payment is less than 10 per cent of tax determined under Section 143(1) or on regular assessment. No interest is payable for the period for which the proceedings resulting in the refund are delayed for the reasons attributable to the assessee (wholly or partly). The rate of interest and entitlement to interest on excess tax are*

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determined by the statutory provisions of the Act. Interest payment is a statutory obligation and non-discretionary in nature to the assessee. In tune with the aforesaid general principle, Section 244-A is drafted and enacted. The language employed in Section 244-A of the Act is clear and plain. It grants substantive right of interest and is not procedural. The principles for grant of interest are the same as under the provisions of Section 244 applicable to assessments before 1-4-1989, albeit with clarity of application as contained in Section 244-A.

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31. The Department has also issued circular clarifying the purpose and object of introducing Section 244-A of the Act to replace Sections 214, 243 and 244 of the Act. It is clarified therein, that, since there was some lacunae in the earlier provisions with regard to non-payment of interest by the Revenue to the assessee for the money remaining with the Government, the said section is introduced for payment of interest by the Department for delay in grant of refunds. ***A general right (sic duty) exists in the State to refund any tax collected for its purpose, and a corresponding right exists to refund to individuals any sum paid by them as taxes which are found to have been wrongfully exacted or are believed to be, for any reason, inequitable.*** *The statutory obligation to refund carried with it the right to interest also. This is true in the case of the assessee under the Act."*

(Emphasis supplied)

The question whether interest u/s.244A is payable on excess payment of self assessment tax arose before the Delhi High Court in CIT III –Vs- Sutlej Industries Ltd reported in (2010) 325 ITR 331, wherein their lordships held as follows:-

"11***. On an analysis of Section 244A of the Act it is seen that where "refund of any amount" becomes due to the assessee, the assessee is entitled to simple interest thereon. The mode and manner of calculating such interest is laid down in Clause (a) and (b) of Sub-section (1) of the said section. Where the refund is out of pre-paid taxes, interest is calculated in terms of Section 244A(1)(a) of the Act. Where the refund is of taxes paid other than pre-paid taxes covered in Clause (a), the computation of interest is for the period prescribed in Clause***

(b), Sub-section (1) of the said section. *In Cholamandalam Investment and Finance Co. Ltd. (supra), it was held that even though the short title to Section 140A reads as self-assessment, the charging phrase employed in Section 140A, namely, "where any tax is payable on the basis of any return required to be furnished u/s. 115WD or 115WH or Section 139 or Section 142 or Section 148 or Section 153A, as the case may be, the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any delay in furnishing; the return", makes it clear that there is no difference between: (i) the tax paid u/s. 115WJ, which deals with advance tax in respect of fringe benefits; or (iii) the tax collected at source u/s. 206C; or (iii) any tax paid by way of advance tax or any tax treated as paid u/s. 199, which deals with credit for tax deducted, which are provided u/s. 244A(1)(a).*

12. ***The tax due on the returned income has to be paid by way of tax deducted at source (Section 199), advance tax (Section 209) or by way of self-assessment tax (Section 140A).*** *In addition, where the assessment is completed at an income higher than the returned income, the tax payable by the assessee is specified in the notice of demand issued u/s. 156 of the Act. Where there is a shortfall in payment on tax vis-a-vis the tax finally due on the assessed income, the assessee is liable to pay interest u/s. 234B of the Act.* ***Conversely, where the Revenue makes a high-pitched assessment which is subsequently reduced/modified in appeal, any payment of taxes made, which are subsequently refunded as a consequence of relief obtained in appeals, etc., are monies legitimately belonging to the tax payers and wrongly withheld by the Government. This is based on the principle that if the Revenue had, in the first instance, made correct assessment of the tax liability of the assessee, the assessee would not have been deprived by the use of money. In such a situation, where pre-paid taxes are in excess of the assessed tax, the assessee is entitled to refund of such tax along with interest thereon.***

13. ***Where an assessee out of abundant caution pays self-assessment whilst staking a claim in the return, which claim is accepted, resulting in refund of self-assessment tax, the assessee should be equally entitled to interest thereon.***

14. Section 244A was inserted in the statute as a measure of rationalization to ensure that the assessee is duly compensated by the Government, by way of payment of interest for monies

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legitimately belonging to the assessee and wrongfully retained by the Government, without any gaps.

15. Therefore, in our view ***where the self-assessment tax paid by the assessee u/s. 140A is refunded, the assessee should be, on principle entitled to interest thereon since the self-assessment tax falls within the expression "refund of any amount". The computation of interest on self-assessment tax has to be in terms of Section 244A(1)(b), i.e., from the date of payment of such amount up to the date on which refund is actually granted.*** *We find support for this conclusion from the decision of the Madras High Court in Cholamandalam Investment and Finance Co. Ltd. (supra), the SLP against which order was dismissed by the Supreme Court. Even otherwise,* ***it is trite law that wherever the assessee is entitled to refund, there is statutory liability on the Revenue to pay the interest on such refund on general principles to pay the interest on sums wrongfully retained (Sandvik Asia Ltd., supra).***"

(Emphasis supplied)

In CIT –Vs- Vijaya Bank reported in (2011) 338 ITR 489 (Karnataka) the revenue came up in appeal before the Karnataka High Court against an order of the tribunal whereby interest was granted on the refund of excess payment by way of self-assessment from the date of payment of tax.

The dispute was regarding the date from which interest is payable on such refund. Revenue contended that refund of self assessment tax did not fall u/s.244A(1)(a), rather it fell under clause (b). Furthermore it was contended that the date of payment of tax referred to in clause (b) means the date on and from which the amount of tax is paid in excess of the notice of demand u/s.156 of the Act. Hence in a case where tax is paid prior to the demand, interest is payable from the date of the assessment order when the tax liability is determined. It is at that stage that the adjustment of tax paid

actually takes place. Thus it cannot date back to the actual date of payment of tax. The Karnataka High Court rejected this contention of the revenue and held as follows:-

"13. Therefore, the object behind the insertion of section 244A, as understood by the Department, is that an assessee is entitled to payment of interest for money remaining with the Government which would be ordered to be refunded. Therefore, if that is the object behind the insertion of section 244A, the contention of the Revenue that if the case does not fall under either of the clauses in section 244A, no interest is payable, is without any substance.

14. Clauses (a) and (b) specifically refer to the instances where interest is paid under the Act. It is not exhaustive. It is possible, in a given case, that after the expiry of the financial year, the assessee may pay tax either along with the self-assessment return or even before the return is filed. If ultimately the said payment is found to be in excess and the Department chooses to refund the said amount, then the question would be, from what date interest is payable since interest is payable on such refunds u/s. 244A. In the absence of an express provison as contained in clause (a), it cannot be said that the interest is payable from the 1st day of April of the assessment year. At the same time, as the said payment of tax was not made in pursuance of a notice of demand issued u/s. 156, Explanation to clause (b) of section 244A has no application. In such cases, as the opening words of clause (b) specifically referred to "as in any other case", the interest is payable from the dates of payment of the tax. As clause (b) expressly provides in any other case the payment of tax subsequent to the first day of April of the assessment year, either before or along with filing of the return would squarely fall under clause (b) and, therefore, when the said amount is ordered to be refunded the interest is to be calculated from the date of such payment of tax. Having regard to the scheme of section 244A and the circular issued by the Board which shows how the Department has understood the section coupled with the fact that the principle underlying the said section is that, any excess payment of tax paid by the assessee is not only to be refunded but it has to be refunded with interest, if the case of the assessee does not fall under clause (a) or the Explanation to clause (b), the excess tax paid shall be refunded with interest from the date of payment of such tax."

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The learned counsel for the revenue has relied on the judgment of the Delhi High Court in CIT –Vs- Engineers India Ltd. reported in [2015] 373 ITR 377 (Delhi) wherein their lordships denied the benefit of interest on excess payment of self assessment tax by holding as follows:-

"31. The liability of the Revenue to pay interest on refund of excess amount paid towards Income Tax Act by the assessee, in terms of Section 244A requires to be examined in above light. Concededly, the provisions contained in Section 115WJ (Advance tax in respect of fringe benefits), Section 199 (Credit for tax deducted), Section 206C (Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.) or Section 207 (Liability for payment of advance tax) have no connection with the liability to pay self-assessment tax. Therefore, clause (a) of sub-section (1) of Section 244A would not apply to refund out of the amount paid as self-assessment tax. Clause (b), on the other hand, is residuary provision. It opens with the expression "in any other case". Naturally, therefore, the liability of Revenue towards interest on refund from out of amount paid as self-assessment tax would fall under this clause.

32. Noticeably, for purposes of calculating the liability of the Revenue towards interest on the amount being refunded u/s. 244A(1)(b), the beginning point is prescribed as the "date of payment of tax (or penalty)". This expression is defined in the explanation appended to the clause to be indicative of the date of payment of the amount "specified" in the demand notice u/s. 156. Thus, the legislation makes it clear that for the residuary clause, the amount paid by the assessee (from which refund is to be made) must have been deposited pursuant to demand notice issued by the assessing authority. ***To put it conversely, the clause would not apply, by virtue of the explanation, in case the excess amount (being refunded) has been paid by the assessee otherwise than in compliance with demand notice or voluntarily.*** *This is the import and effect of the explanation if the language employed thereof is read, understood and construed in its natural and ordinary sense. Since the words used are clear, plain and unambiguous, there is no scope for beneficent construction since it would lead to re-legislation, which is impermissible.*

33. The observations of the Supreme Court in Sandvik Asia Limited (supra) must be understood in the light of

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clarification given in the case of Commissioner of Income Tax, Gujarat v. Gujarat Fluoro Chemicals (supra). There is no liability of the Revenue to pay tax on refund beyond the liability created by the statutory provisions. In the case of Union of India v. Tata Chemicals (supra), the collection of the tax (through deductor) was found to be illegal, thus giving rise to the liability to pay interest on the refunded amount.

34. We, thus, conclude that there cannot be a general rule that whenever a refund of income tax paid in excess is to be made, the Revenue must necessarily pay interest on the refunded amount. ***The letter and spirit of the law on the subject is that the party which committed the error in proper calculation (or delay in proper assessment) must bear the burden.*** *If the excess amount is paid due to erroneous assessment by the Revenue, having exacted such burden wrongfully and inequitably on the assessee and having retained the excess amount thus received, the reimbursement must be accompanied by payment of interest at the statutorily prescribed rate.* ***Conversely, if the assessee is to blamed for the miscalculation (or for delay or, for that matter, want of claim of refund), the Revenue does not owe any interest even if the excess payment of tax is liable to be refunded."***

(Emphasis supplied)

The Division Bench in Engineers India Ltd. (supra) differed from the view expressed in Sutlej Industries (supra) and held as follows:-

"35. Having found the position of law as indicated above, we express, with respect, our inability to subscribe to, or follow, the view taken by the other Division Bench of this court in the case of Commissioner of Income Tax v. Sutlej Industries Ltd. (supra).

36. Even otherwise, noticeably, in the case of Commissioner of Income Tax v. Sutlej Industries Ltd. (supra), the question had been examined in the facts and circumstances indicative of "high-pitched assessment" made by the Revenue and the refund of the self-assessment tax resulting from a claim to such effect being made by the assessee in the return. In the case at hand, the Revenue had not made the excessive assessment so as to impel the deposit of self-assessment tax in excess. The assessee did not make a claim for refund in the return. Such claim appears to have come later.

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37. For the very same reasons as set out above, we are not inclined to endorse the view taken by Madras High Court in the case of CIT v. Cholamandalam Investment & Finance Co. Ltd. (supra) wherein in our view, the proposition of law on the subject was expounded in too broad terms. As clarified by the Supreme Court in the case of Commissioner of Income Tax, Gujarat v. Gujarat Fluoro Chemicals (supra), there is no general principle obliging the Revenue to pay interest on all sums wrongfully retained. It is trite that a fiscal statute is to be construed strictly. The claim of interest on refund of income tax has to be pegged on the statutory clauses only.

38. For the foregoing reasons, we answer the substantial question of law mentioned in para 3 above accordingly in favour of the Revenue.

39. In absence of explanation as to how the assessee erred in calculation of self-assessment tax, there being no allegation that such excess deposit was pursuant to demand by the Revenue, the claim for interest on excess payment voluntarily made cannot be sustained. In the result, the appeal is allowed and the impugned order passed by ITAT directing the AO to pay interest to the assessee on the refunded amount is set aside."

The Delhi High Court in Engineers India Ltd (supra) relied on the judgment of the apex court in CIT v. Gujarat Fluoro Chemicals, reported in (2014) 1 SCC 126. In Gujrat Fluro Chemicals (supra) the apex court held as follows:-

"1. Doubting the correctness or otherwise of the decision of this Court in Sandvik Asia Limited vs. Commissioner of Income Tax & Ors., (2006) 2 SCC 508, a bench of two learned Judges has referred the following question of law for our consideration and authoritative pronouncement by order dated 23.08.2012:

"The question which arises in this case is, whether interest is payable by the Revenue to the assessee if the aggregate of instalments of Advance Tax /TDS paid exceeds the assessed tax?"

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5. In our considered view, the aforesaid judgment has been misquoted and misinterpreted by the assessees and also by the Revenue. They are of the view that in Sandvik case (supra) this Court had directed the Revenue to pay interest on the statutory interest in case of delay in the payment. In other words, the interpretation placed is that the Revenue is obliged to pay an interest on interest in the event of its failure to refund the interest payable within the statutory period.

6. ***As we have already noticed, in Sandvik case (supra) this Court was considering the issue whether an assessee who is made to wait for refund of interest for decades be compensated for the great prejudice caused to it due to the delay in its payment after the lapse of statutory period. In the facts of that case, this Court had come to the conclusion that there was an inordinate delay on the part of the Revenue in refunding certain amount which included the statutory interest and therefore, directed the Revenue to pay compensation for the same not an interest on interest.***

7. Further it is brought to our notice that the Legislature by the Act No. 4 of 1988 (w.e.f. 01.04.1989) has inserted Section 244A to the Act which provides for interest on refunds under various contingencies. ***We clarify that it is only that interest provided for under the statute which may be claimed by an assessee from the Revenue and no other interest on such statutory interest."***

The dissenting note struck in Engineers India Ltd. (supra) by the Division Bench of Delhi High Court does not commend to us for the following reasons:-

a) The judgment in the case of Gujarat Fluro Chemicals is not even remotely connected with the issue which came up for consideration before the Division Bench. The issue was already covered by a judgement, in the case of Sutlej Industries (supra) of a co-ordinate bench.

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b) Apropos to the question one can argue on the basis of Gujrat Fluro Chemicals (supra) that "it is only that interest provided for under the statute which can be claimed by an assessee."

c) The Apex Court in the case of Tata Chemicals (supra) opined, in paragraph 38 quoted above, that "providing for payment of interest in case refund of amounts paid as tax or deemed tax or advance tax is a method now statutorily adopted by fiscal legislation."

d) Amount paid on self-assessment u/s140A also partakes the character of assessed tax as would appear from explanation appended to Section 140A(1B) which provides that "assessed tax means the tax on the total income as declared in the return...."

e) Sub-section 3 of Section 140A provides for consequences in case of omission by an assessee to pay such assessed tax u/s. 140A which is as follows:-

> *"(3) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid, and all the provisions of this Act shall apply accordingly."*

f) The basis of the views expressed in Engineers India Ltd.(supra) is the reasoning appearing from paragraph 34 of the judgement (quoted above) which, with respect, did not take into account the import of Section 140A fully. Nor did the Division Bench contemplate a situation like the one

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before us. In this case, the occasion for refund arose because of the relief granted by the appellate forum.

g) Restricting the scope of section 244A(1)(b) by reading the explanation as imposing a limitation thereto, the Division Bench omitted to notice the view expressed by their lordships in Tata Chemicals (supra) that the explanation to clause (b) would have effect only where payment of tax is made pursuant to a notice u/s.156 of the Act.

h) From the circular issued by CBDT it would appear that Sectin 244A was enacted "to remove this inequity". The Apex Court in Tata Chemicals (supra) held in paragraph 31 (quoted above) "a corresponding right exists to refund to individuals any sum paid by them as taxes which are found to have been wrongfully exacted or are believed to be, for any reason, inequitable." Their Lordships also applied the maxim ex ae quo et bono which means "in equity and good conscience."

i) We are inclined to think that the right of the assessee to receive interest on refund is statutorily recognized by Sub-Section (1) of Section 244A when it provides that:-

"Where refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely."

The aforesaid right is, we admit, subject to provisions of Section 244A. Section 244A does not deny payment of interest in case of refund of amount

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paid under Section 140A. On the contrary Clause-(b) being a residuary clause necessarily includes payment made u/s. 140A.

j) And finally in the instant case the CIT(A) found that the income tax liability as assessed earlier was erroneous and hence he directed that the excess amount of tax including self assessment tax be refunded to the assessee. In these circumstances the principle of restitution would be squarely attracted and the revenue is also statutorily bound to pay interest u/s.244A(1)(b) to the assessee. The apex court in South Eastern Coalfield – Vs- State of M. P. reported in 2003 (8) SCC 648 has categorically held that once the doctrine of restitution is attracted, the interest is often a normal relief given. Restitution sometimes refers to "disgorging of something which has been taken" and sometimes refers to "compensation for injury done". Law does not favour unjust enrichment nor does it favour unjust impoverishment.

The principle of unjust enrichment proceeds on the basis that it would be unjust to allow one person to retain a benefit received at the expense of another person. It provides the theoretical foundation for the law governing the doctrine of restitution which was echoed in Tata Chemicals (supra).

In the light of the discussion made above, we are of the opinion that Clause (b) of Sub-Section 1 of Section 244A is residual in nature and provides for interest on refund of excess self-assessment tax paid by the assessee. Furthermore the explanation to section 244A(1)(b) would have no application

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since the tax in question was not paid consequent to any notice of demand u/s. 156, rather it was paid u/s 140A. Hence according to mandate of section 244A(1)(b) interest is payable on refund of excess self assessment tax from the date of payment of such tax to the date when the refund is granted. We are also supported in our view by the following judgments:-

In Commissioner of Income-Tax vs. Cholamandalam Investment and Finance Co. Ltd. reported in (2007) 294 ITR 438 (Mad) (SLP bearing no. 16877/2008 dismissed vide order dated 3/12/2009) the issue was whether the assessee was entitled to interest under section 244A as per clause (1)(b) of that section when the refund had arisen on account of payment of self-assessment tax. The Court answered the question in the affirmative and held as follows:-

*"**6.** Even though the short title to section 140A reads as self-assessment, the charging phrase employed in section 140A namely "Where any tax is payable on the basis of any return required to be furnished under section 115WD or section 115WH or section 139 or section 142 or section 148 or section 153A, as the case may be; the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any delay in furnishing the return", makes it clear that there is no difference between:*

(i) the tax paid under section 115WJ, which deals with advance tax in respect of fringe benefits; or

(ii) the tax collected at source under section 206C; or

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(iii) any tax paid by way of advance tax or any tax treated as paid under section 199, which deals with credit for tax deducted, which are provided under section 244A(1)(a).

7*.The proviso to section 244A(1)(a) makes it clear that no interest shall be payable if the amount of refund is less than 10 per cent, on regular assessment with regard to the refund of advance tax paid under section 115WJ in respect of fringe benefits; (ii) tax collected at source under section 206C; and (iii) advance tax or any tax treated as paid under section 199. But, with respect to other tax as per section 244A(1)(b), the interest shall be payable even if the amount is less than 10 per cent, of the tax as determined under section 143(1) or on the regular assessment, because there is no proviso to section 244A(1)(b) as provided under section 244A(1)(a).*

8. *That apart, the law is well-settled that even for the refund of tax paid under section 140A on self-assessment, the assessee is entitled to interest as held by this court in CIT v.Ashok Leyland Ltd., [2002] 254 ITR 641.*

9. *It is also trite law that wherever the assessee is entitled to refund, there is a statutory liability on the Revenue to pay the interest on such refund on general principles to pay the interest on sums wrongfully retained.*

10. *We are also strengthened by the decision of the apex court for the above view taken in Sandvik Asia Ltd. v. CIT, [2006] 280 ITR 643, wherein it is held as follows (headnote):*

'In view of the express provisions of the Income-tax Act, 1961, an assessee is entitled to compensation by way of interest for the delay in the payment of amounts lawfully due to the assessee which are withheld wrongly and contrary to law.

The Government is liable to pay interest, at the rate applicable to the excess amount refunded to the assessee,…' "

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In CIT v M/s. Vam Organic Chemiclas Ltd. (Income Tax Appeal No. 49 of 2007 Allahabad High Court, decided on 26th February 2015) the Court relying on Vijaya Bank (supra), Stock Holding Corporation of India (supra), Cholamandalam Investment and Finance Company (supra) and Tata Chemicals (supra) held as follows:-

"5. Section 244A(1)(a) of Act, 1961 is applicable in respect to the cases where tax has been paid or collected under certain Sections mentioned therein, i.e., Section 115 WJ, 206C and 199. However, Section 244A(1)(b) applies in all remaining cases which obviously would include within its ambit Section 140A also.

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7… With respect to the matters governed by Section 244A(1)(a), the proviso deny interest on refund, if the amount of refund is less than ten per cent of tax determined under Section (1) of Section 143 or on regular assessment. However, in respect to matters governed by Section 244A (1)(b), there is no such restrictions. Even if the amount refunded is less than ten per cent, it would attract interest since there is no proviso unlike Section 244A(1)(a)…

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11. The Scheme of statute makes it very clear that liability of interest as per the situation is on both the sides. Where assessment is completed at an income higher than the returned income, the tax payable by Assessee is specified in the notice of demand issued under Section 156 of Act, 1961. In case of shortfall in payment of tax vis-a-vis the tax finally due on the assessed income, the Assessee is liable to pay interest under Section 234B of Act, 1961. In the same way where amount of tax paid by Assessee is found higher and an amount is found refundable to Assessee, a similar obligation has been fastened upon Revenue. Where the prepaid tax are in excess of assessed tax, Assessee is entitled for refund of excess tax along with the interest.

12. Then comes the question as to from which date interest is payable. On this question also, we find that matter has been examined by Karnataka High Court in Commissioner of Income Tax Vs. Vijaya Bank (supra) and Bombay High Court in Stock Holding

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Corporation of India Limited (supra). The contention of Revenue that the interest should be paid from the date of notice under Section 156 in terms of Explanation in Section 244A(1)(b) was rejected by observing that Explanation would have effect only where payment of tax has been made pursuant to notice under Section 156 but where payment has been made prior to filing of return of income in accordance with Section 140A, it has been said that the Revenue would pay interest on the amount refunded for the period commencing from the date, payment of tax is made to the Revenue, upto the date when refund is granted. The Bombay High Court in Stock Holding Corporation of India Limited (supra) said: Thus, the interest is payable not from the date of payment but from the date of demand notice under section 156 cannot be accepted as otherwise the legislation would have so provided in section 244A(1)(b), rather than having provided from the date of payment of the tax.'"

The Kerala High Court in ACIT –Vs- M/s. Kerala Transport Company reported in (2014) 222 Taxman 149, the Rajasthan High Court in CIT –Vs- M/s. Mangalam Arts reported in (2013) 218 Taxman 51 and the Punjab & Haryana High Court in CIT –Vs- Punjab Chemical & Crop Protection Ltd. reported in (2015) 231 Taxman 312 have taken the same view as above.

By the impugned order the learned tribunal relying upon CIT v MMTC Ltd (supra) held that the scope of section 154 does not extend to a debatable issue and hence the assessing officer in exercise of power u/s 154 could not have withdrawn the interest u/s 244A(1)(b) on the refund of excess self assessment tax. Mr Khaitan learned Senior Advocate appearing for the assessee contended that section 244A does not mandate that interest is not to be allowed on refund of excess self assessment tax and thus there was no

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"*mistake apparent from the record*" which could have been corrected u/s 154 of the Act.

Sub -Section (1) of Section 154 of the Act reads as follows:-

"*154. Rectification of mistake.—(1) With a view to rectifying any mistake apparent from the record an income tax authority referred to in Section 116 may,—*

(a) amend any order passed by it under the provisions of this Act;

(b) amend any intimation or deemed intimation under sub-section (1) of Section 143.

(c) amend any intimation under sub-section (1) of Section 200-A.

(1A)…
(2)…
(3)…
(4)…
(5)…
(6)…
(7)…
(8)…"

U/s. 154 of the Act only a "mistake apparent from the record" is rectifiable. Thus the precondition to invoke section 154 is the presence of a mistake and that the same must be apparent from the record. The power to rectify a mistake u/s.154, however, does not extend to revision or review of the order. The word apparent means something, which is clearly visible or understood or obvious. Therefore a mistake which can be rectified u/s.154 is one which is patent, which is obvious and whose discovery is not dependent on argument or elaboration. The rectification of an order does not imply that the original order is replaced by a completely new order. In the instant case the assessing officer has attempted to substitute the original order which is not permissible u/s.154.

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An error, which is by no means self-evident, cannot be called an apparent error. Nevertheless a mistake capable of being rectified u/s. 154 is not limited to clerical or arithmetical mistakes only. However it does not include any mistake which may be discovered by a complicated process of investigation, argument or proof. Reference in this regard may be made to T.S. Balaram, ITO v Volkart Bros (1971) 82 ITR 40 (SC).

A decision on a debatable point of law or a disputed question of fact is not a mistake apparent from the record. The ordinary meaning of the word "apparent" is that it should be something, which appears to be so ex facie that it does not admit scope for any argument or debate. It, therefore, follows that a decision on a debatable point of law or fact or failure to apply the law to a set of facts which remains to be investigated cannot be corrected by way of rectification. Reference in this regard may be made to CIT v MMTC Ltd (supra).

Section 244A does not mandate that interest cannot be allowed on self assessment tax paid u/s 140A. As discussed earlier it cannot be said that interest u/s.244A can be allowed only in cases where excess payments of tax is made consequent to a notice of demand u/s.156. The language of the Act is clear and there is no ambiguity in it. Hence the assessee is clearly entitled to claim interest u/s.244A on refund of excess self assessment tax.

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In K.K.J. Foundations –Vs.- The Assistant Director of Income Tax (ITA. No. 242 of 2014) the Kerala High Court by Judgment dated 8th September 2015 held as follows:-

"By invoking the power of rectification, the ultimate conclusion of a decision cannot be changed. So also, the employment of the words phraseologies in Sec.154 shows that by rectification it intended only to correct any mistake and amend the same accordingly. It is a settled proposition of law that rectification is a process by which a mistake is set at right. It thus means correcting an error which was apparent from record and not deciding the matter over and again on merits and that the rectified order does not supersede the original order but continues with the incorporated changes.

Moreover, we have come across two judgments of the 'Hon'ble Apex Court in 'S. Nagaraj v. State of Karnataka' [(1993) Supp. 4 SCC 595] and 'Ammonia Supplies Corporation Pvt. Ltd. v. Modern Plastic Containers Pvt. Ltd.' [AIR 1998 SC 3153], by which it was held in the former judgment that rectification of an order stems from fundamental principle that justice is above all. It is exercised to remove the error and not for disturbing finality. In the latter judgment, it was held that rectification connotes something what ought to have been done but by error is not done and what ought not to have been done was done requiring rectification. Rectification, in other words, is the failure to comply with the directions under the Act. Therefore, it is apposite and clear that the power under Sec. 154 can be invoked only to correct an error and not to disturb a concluded finding."

Thus in the instant case there was no mistake apparent from the record which could be rectified u/s. 154 of the Act. In that view of the matter, the question Nos.1, 3 and 4 are answered in the affirmative. The question No.2 is answered in the negative.

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We therefore direct the assessing officer to compute the interest payable from the date of payment of tax on the basis of self-assessment till the date of grant of refund. The revenue is directed to compute the interest due to the assessee and pay the same within a reasonable time.

The appeal is thus, dismissed.

Parties shall, however bear their own costs.

(GIRISH CHANDRA GUPTA, J.)

I agree. (ASHA ARORA, J.)

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