

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3826 OF 2012

M/S. UNIVERSAL CABLES LTD.

APPELLANT(S)

VERSUS

COMMISSIONER OF INCOME-TAX, JABALPUR

RESPONDENT(S)

O R D E R

Heard learned counsel for the parties.

The limited issue that needs to be considered in the present appeal is whether the appellant would be entitled to interest on the amount refunded by the Department. The appellant relies on the decision of this Court in the *Union of India Vs. Tata Chemicals Ltd. reported in (2014) 6 SCC 335*, in particular, paragraph 37 of the said decision. The same reads thus: -

"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 unauthorizably 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 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.*"
(emphasis supplied in italics)

From the dictum in this judgment, it is clear that there is no reason to deny payment of interest to the deductor who had deducted tax at source and deposited the same with the Treasury. In our opinion, this observation squarely applies to the appellant.

As a result, we allow this appeal and direct the Department to pay interest as prescribed under Section 244-A of the Income Tax Act as applicable at the relevant time at the earliest.

The appeal is allowed in the aforesaid terms. No costs. All pending applications are disposed of.

.....J.
[A.M.KHANWILKAR]

.....J.
[DINESH MAHESHWARI]

NEW DELHI;
DECEMBER 12, 2019.

ITEM NO.105

COURT NO.7

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 3826/2012

M/S UNIVERSAL CABLES LTD.

Appellant(s)

VERSUS

C.I.T-II, JABALPUR

Respondent(s)

([AT TOP])

Date : 12-12-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Appellant(s) Mr. Akshat Shrivastava, Adv.
Mr. Inderjeet Yadava, Adv.
Ms. Manjeet Kirpal, AOR

For Respondent(s) Mr. K.Radhakrishnan, Sr. Adv.
Mr. Rupesh Kumar, Adv.
Ms. Gargi Khanna, Adv.
Mrs. Anil Katiyar, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of signed order.

Pending application(s), if any, shall stand disposed of.

(RAJNI MUKHI)
SENIOR PERSONAL ASSISTANT

(VIDYA NEGI)
COURT MASTER (NSH)

(Signed order is placed on the file)