# DESAI SAKSENA & ASSOCIATES

**16th January, 2026**

## Friday Tax Alert

**Interest on refund under Section 244A is payable even if refund arose from Vivad se Vishwas settlement: HC**

**FACTS OF THE CASE:**

- The assessee is engaged in the business of manufacturing, trading, and supply of sugar and allied products.
- An assessment order was passed in the case of the assessee against which the assessee filed an appeal before the Commissioner (Appeals).
- Subsequently, the assessee opted for settlement under the Direct Tax Vivad Se Vishwas Act, 2020 by filing Forms 1 and 2. A certificate in Form 3 was issued under section 5(1), determining a refund in favour of the assessee, followed by filing of payment intimation under section 5(2) for AY 2008-09.
- A final order under sections 5(2) read with section 6 declared full and final settlement of tax arrears, and a communication determining the refundable amount was issued.
- The Department proposed adjustment of the refund against a demand for AY 2018-19 raised under section 270A. The assessee objected on the ground that the AY 2018-19 demand was stayed by the High Court under an interim order.
- Despite objections, repeated intimations proposing adjustment were issued, including in respect of AYs 2009-10 and 2018-19. An appeal against one such order was later dismissed as withdrawn pursuant to the Vivad Se Vishwas settlement.
- Eventually, after objections, the Department stated that the refund had been released, and the amount was subsequently credited to the assessee's bank account.
- The assessee filed the present writ petition seeking interest on the delayed refund from the date of giving effect to the Form No. 5 order dated 24-02-2021, contending that the delay of over three years caused financial loss. As no interest was granted, the assessee approached the High Court for relief.

**CONCLUSION:**

- The issue is with regard to the refund that the petitioner was entitled to, according to the respondents/department. Towards the said refund, the petitioner and the department have plethora of correspondences between them. The assessment of refund is made under the Direct Tax Vivad Se Vishwas Act, 2020. The communication that is germane to be noticed is dated 11-04-2022.
- What could be gathered from the aforesaid communications is, that under the Act, 2020 refund of Rs. 2,60,92,283/- was determined under order in Form No. 5 on 24-02-2021. On such determination, it was credited to the account of the petitioner, not on 24-02-2021, but on 10-01-2024. Therefore, there is clear delay of 35 months in crediting the amount of refund so determined by the respondents as on 24-02-2021.
- The issue is whether the petitioner would become entitled to interest on the said refund from 24-02-2021, till it reached the doors of the petitioner on 10-01-2024?
- The determination of amount of refund is admittedly Rs. 2.60 crores. This forms the corpus of refund. It is delayed by 35 months. Therefore, the interest on refund ought to have been granted to the assessee. Whether the amount of interest that stood determined or that is grantable to the assessee from 24-2-2021 to 10-1-2024 forms the principle or the corpus for grant of an interest on that interest, is required to be considered, as that is what the assessee has projected.
- In the light of the issue standing completely answered by the Apex Court in the case of *CIT v. H.E.G. Ltd. [2010] 189 Taxman 335 (SC)/[2010] 324 ITR 331 (SC)* and that of the High Court of Rajasthan in the case of *Dwejesh Acharya v. ITO [2023] 157 taxmann.com 332 (Rajasthan)*, this Court need not delve deep into the matter with regard to whether the assessee would be entitled to interest on interest. The petition thus deserves to succeed, on the aforesaid ground

of the entitlement of the assessee, as is determined by the Apex Court and the High Court of Rajasthan qua the assessee therein, who is similarly situate as the assessee in the case at hand.

- For the aforesaid reasons, the writ petition is allowed and a mandamus is issued directing payment of interest on delayed refund of Rs. 2.60 crores at the rate of 6 per cent per annum from 25-5-2021 up to the date of payment of refund on 10-1-2024 and interest on the interest for the aforesaid period.

***Shree Renuka Sugars Ltd. vs. ACIT [2026] 182 taxmann.com 65 (Karnataka)***

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**Where group companies were subjected to search and additions were made under section 69A based solely on WhatsApp chats retrieved from directors/employees without any corroborative material and chats did not specify whether amounts were receipts or payments, such additions were unsustainable as unexplained money or on account of alleged unaccounted turnover: ITAT**

**FACTS OF THE CASE:**

- During a search conducted at premises of assessee and its group companies, WhatsApp chats were retrieved from directors/employees' phones, allegedly reflecting cash transactions.
- The Assessing Officer relying on the chats, added the entire amounts as unexplained money under section 69A of the Income Tax Act, 1961 ("the Act").
- On appeal, the Commissioner (Appeals) treated the chat figures as unaccounted transactions/suppressed turnover and applied gross profit rates, sustaining only profit elements
- Aggrieved by the order of the Commissioner (Appeals), the assessee filed an appeal before the Tribunal.

**CONCLUSION:**

- The addition was made only on the basis of WhatsApp chats between the director of the assessee and employee of the company. Apart from the WhatsApp chat there is no evidence on record nor any substantive evidences have been brought by the Assessing Officer or Commissioner (Appeals) on record.
- The Assessing Officer added the entire money as unexplained money under section 69A, whereas as a matter of fact, there was no money which could be added under section 69A and, therefore, the provisions of section 69A are not applicable.
- The Commissioner (Appeals) has gone a step further by applying GP on the said WhatsApp chats amount. Under these circumstances, unless there is a corroborative material found to support the transactions mentioned in the WhatsApp chats, no addition could be made in the hands of the assessee, even on account of profits as done by the Commissioner (Appeals).
- The assessee has also made without prejudice submission that as per provisions of section 292C, the presumption is to be drawn in respect of WhatsApp transactions in the hands of the person from whose possession or control the books of account/documents, etc. are found. Even the presumption under section 292C is rebuttable when the assessee proved that he has not done any such transactions even in respect of such transaction as were contained in the loose paper which were found during the course of search.
- In the present case, the chats of one of the directors of the group companies and as such any adverse view should be taken in his hand and not in the hands of the assessee specially on the ground that there is nothing on record to substantiate the transactions belonged to the assessee.
- It is also found that it is not mentioned in the WhatsApp chat whether the amounts involved are receipt or payments.
- Accordingly, the ITAT set aside the order of the Commissioner (Appeals) and directed the Assessing Officer to delete the addition as sustained by the Commissioner (Appeals).

***DCIT v. Balmukund Sponge and Iron (P.) Ltd.* [2025] 181 taxmann.com 464 (Kolkata - Trib.)***

# Desai Saksena & Associates

**From:**

**Tax Team of Desai Saksena and Associates**
**Chartered Accountants**

CA Varsha Nanwani (Senior Manager - Taxation)
Vikas Jogle (Manager - International Taxation)
CA Neelu Dusseja (Senior Manager - Indirect Taxation)
CA Neha Patel (Manager - Taxation)
CA Ajay Sachani (Manager - Taxation)
Digvijay Hirwani (Assistant Manager - Taxation)
Alok Sharma (Deputy Manager - Indirect Taxation)

**Contacts:**

**If you have any questions or would like to have additional information on the topics covered in this alert, please email one of the following DSA professionals:**

- ✓ CA Varsha Nanwani (Senior Manager – Taxation)
  varsha@dsaca.co.in
- ✓ Vikas Jogle (Manager – International Taxation)
  vikas@dsaca.co.in
- ✓ CA Neelu Dusseja (Senior Manager – Indirect Taxation)
  neelu@dsaca.co.in
- ✓ CA Neha Patel (Manager - Taxation)
  neha@dsaca.co.in
- ✓ CA Ajay Sachani (Manager – Indirect Taxation)
  ajay@dsaca.co.in
- ✓ Digvijay Hirwani (Assistant Manager - Taxation)
  digvijay@dsaca.co.in
- ✓ Alok Sharma (Deputy Manager – Indirect Taxation)
  sharma.alok12@gmail.com