

F.No.279/Misc./M-140/2015-ITJ

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, 26th April, 2016

Subject:- Payment of interest on refund under section 244A of excess TDS deposited under section 195 of the Income tax Act, 1961– reg.

The procedure for refund of tax deducted at source under section 195 of the Income tax Act, 1961, to the person deducting the tax is delineated in CBDT Circular No. 7/2007 dated 23.10.2007. Circular No. 7/2007 states that no interest under section 244A of the Act, is admissible on refunds to be granted in accordance with the circular or on the refunds already granted in accordance with Circular No. 769 or Circular 790 dated 20.4.2000.

2. The issue of eligibility for interest on refund of excess TDS to a tax deductor has been a subject matter of controversy and litigation. The Hon'ble Supreme Court of India in the case of Tata Chemical Limited¹, Civil Appeal No. 6301 of 2011 vide order dated 26.02.2014, held that, "*Refund due and payable to the assessee is debt-owed and payable by the Revenue. The Government, there being no express statutory provision for 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.*"

3. In view of the above judgment of the Apex Court it is settled that if a resident deductor is entitled for the refund of tax deposited under Section 195 of the Act, then it has to be refunded with interest under section 244A of the Act, from the date of payment of such tax.

4. Accordingly, it is advised that no appeals may henceforth be filed on this ground by the officers of the department and appeals already filed on this issue may not be pressed upon.

¹ 2014-LL-0226-164 NJRS Citation

5. This may be brought to the notice of all concerned.

Sadhana
26/4/16
(Sadhana Panwar)
DCIT (OSD)(ITJ),
CBDT, New Delhi.

Copy to:

1. The Chairman, Members and officers of the CBDT of the rank of Under Secretary and above.
2. OSD to Revenue Secretary.
3. All Pr. Chief Commissioners of Income-Tax & All Directors General of Income-Tax with a request to bring to the attention of all officers.
4. The Pr. Director General of Income-Tax, NADT, Nagpur.
5. The Pr. DGIT (Systems), ARA Centre, Jhandewalan Extension, New Delhi.
6. The Pr. DGIT (Vigilance), New Delhi.
7. The ADG (PR, PP & OL), Mayur Bhawan, New Delhi for printing in the quarterly tax bulletin and for circulation as per usual mailing list.
8. The Comptroller and Auditor General of India.
9. The ADG-4 (Systems) for uploading on ITD website.
10. Data Base Cell for uploading on irsofficersonline.
11. Guard file.

Sadhana
26/4/16
(Sadhana Panwar)
DCIT (OSD)(ITJ),
CBDT, New Delhi.

o/c