



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODG.) NO. 17982 OF 2024

Grasim Industries Limited,
a company incorporated in India,
having corporate office at A-2,
Aditya Birla Centre, S. K. Ahire Marg,

... Petitioner

Versus

1. Chief Commissioner of Income Tax (Central) 1,
424, 4th Floor, Aayakar Bhavan, Maharishi Karve
Road, Mumbai – 400 020.

2. Assistant Commissioner of Income Tax (Central)
1 (4), 902, 9th Floor, Pratishtha Bhavan, Old CGO
Annexe Maharishi Karve Road,
Mumbai – 400 020.

3. Union of India, through the Secretary,
Department of Revenue, Ministry of Finance,
Government of India, North Block,
New Delhi – 110 001.

... Respondents

Mr. Dharan V. Gandhi, for the petitioner.

Mr. Akhileshwar Sharma, for the respondents.

CORAM:

G. S. KULKARNI &
ADVAIT M SETHNA, JJ.

RESERVED ON :

11th NOVEMBER 2024

PRONOUNCED ON:

12th NOVEMBER 2024

Judgment (Per Advait M. Sethna, J.)

1. Rule, made returnable forthwith. Respondents waive service. By consent of the parties, the petition is heard finally.

2. This petition is filed under Article 226 of the Constitution of India. Briefly, the petition challenges an order dated 30th March 2024 passed by respondent No.1 (***“impugned order”*** for short). By the said order, the application filed by the petitioner dated 9th November 2022 seeking waiver of interest charged under Section 234C of the Income Tax Act, 1961 (***“Income Tax Act”*** for short) for the Assessment Year 2021-22 (***“A. Y. Year 2021-22”*** for short) stood rejected. The reliefs/prayers in the petition are set out at pages 52 to 54 in para 12 thereof. The substantive relief/prayer is to quash and set aside the impugned order passed by respondent No.1 and to grant waiver of interest for an amount of Rs.3,88,59,353/- charged under Section 234C of the Income Tax Act. Such is the limited issue for consideration before us.

A. Factual Matrix:-

3. The relevant facts need to be set out:-

The petitioner filed its return of income on 11th March 2022 for the A. Y. Year 2021-22, declaring income at Rs.3,65,12,48,710/- with book profits at Rs.11,57,63,40,425/- and total tax of Rs.2,06,03,13,939/- including interest of Rs.3,88,59,353/-. Such interest of Rs.3,88,59,353/- is charged for deferment of Advance Tax under Section 234C of the Income Tax Act for the A. Y. Year 2021-22. This is the undisputed factual position as also set out

in the impugned order.

4. The details of Advance Tax paid and computation of interest payable by the assessee under Section 234C of the Act for A. Y. 2021-22 are as under:-

Particulars	Date of payment of Advance Tax	Advance Tax Paid within the due date (Rs.)	Interest Payable Amount (Rs.)
Quarter 1	15.06.2020	11,00,00,000	25,45,549
Quarter 2	-		2,02,96,287
Quarter 3	15.12.2020	70,00,00,000	1,54,24,282
Quarter 4	13.03.2021	90,00,00,000	5,93,235
Total		1,71,00,00,000	3,88,59,353

5. It is the petitioner's case that the petitioner has paid Advance Tax of Rs.11 Crores for the first quarter being April to June 2020, despite suffering loss of Rs.395 Crores. The details of payment of Advance Tax and computation of interest under Section 243C of the Income Tax Act for the A. Y. Year 2021-22 are also set out in the impugned order at paragraph 2.4 thereof which is set out hereunder. The aforesaid details reveal that the petitioner has paid total Advance Tax of Rs.1,71,00,00,000/-. The total interest paid by the petitioner is an amount of Rs.3,88,59,353/- at the time of filing of returns for the said assessment year (A.Y. 2021-22).

B. Rival Submissions:-

6. Mr. Gandhi, learned counsel for the petitioner has drawn our attention to the petitioner's application for waiver of interest dated 9th November 2022 filed for waiver of interest chargeable under Section 234C of the Income Tax Act. In support thereof, he submits that the Assessee diligently paid Advance Tax installments for the quarters commencing April to June 2020 to January to March 2021, amounting to Rs.1,71,00,00,000/- as noted hereinabove. He submits that only for the quarter July to September 2020, the Assessee could not make payment of the Advance Tax within the due date.

7. Mr. Gandhi would further submit that such fluctuations were the impact of COVID-19 pandemic on the overall business of the petitioner, which made it extremely challenging for the Assessee to correctly/properly estimate the book profits for paying the Advance Tax during A.Y. 2021-22.

8. The learned counsel places reliance on Section 234C of the Income Tax Act for the purposes of claiming waiver of interest amounting to Rs.3,88,59,353/- for the A.Y. 2021-22. In support of such submission, he places reliance on the expression '*failure to estimate*' which appears in the said statutory provision. According to Mr. Gandhi, it was not possible for the Assessee to estimate the book profits for payment of Advance Tax during

A.Y. 2021-22, which was primarily attributable to the COVID-19, which prevailed at the relevant time. He also places reliance on Sections 208 and 209 of the Income Tax Act which deal with the liability to pay Advance Tax. According to him, the correct/precise estimation of the income for the A.Y. 2021-22 was beyond the control of the petitioner due to the impact of the COVID-19 pandemic.

9. Mr. Gandhi has also placed reliance on the provisions of Section 119 of the Income Tax Act under which the Central Board of Direct Tax issues orders, instructions to its subordinate authority. Such delegation of power encompasses *inter-alia*, Section 234C of the Income Tax Act, being the provision which is relied on behalf of the petitioner in the present case.

10. In support of the above submission, Mr. Gandhi has placed reliance on a press note dated 21st May 1996 alongwith instructions/order F No. 400/129/2002 dated 26th June 2006. In this regard, he submits that the said order/instructions envisage waiver of interest in certain circumstances stipulated in the order/instructions (*supra*). He has contended that the Chief Commissioners, by way of such delegated legislation were authorised to reduce or waive interest under Section 234C which was aimed at mitigating the hardship to the Assessee in deserving cases subject to certain conditions stipulated in such instructions. He submits that the order/instructions dated

26th June 2006 continues to hold the field and would be applicable to the present case, as far as the waiver of interest is concerned.

11. Mr. Gandhi, in support of his submissions relies on the order passed by the Supreme Court dated 10th January 2022 in Suo moto Writ Petition (c) No. 3 of 2020 to contend that considering the difficulties faced by litigants in light of the COVID-19 pandemic, the period of limitation prescribed under the general law of limitation or under Special Law (both Central and/or State) stood extended due to the said COVID-19 pandemic. This was applicable for the period between 15th March 2020 till 20th February 2022 which stands excluded for the purposes of limitation, so as to justify waiver of the aforementioned interest amount under Section 234C of the Income Tax Act as claimed by the petitioner.

12. Mr. Gandhi has also placed reliance on a recent decision of the Supreme Court dated October 3, 2024 in the case of Union of India vs. Rajeev Bansal¹ and more particularly on paragraphs 62 to 64 of the said judgment, to contend that even the Supreme Court has taken due cognizance on the compliance of relaxation of time limits which fell for compliance of certain action during the outbreak of COVID-19. He would thus contend that the case of the petitioner for waiver of interest is well within the contours of the said judgment and thus be allowed.

¹ 2024 167 taxmann.com;70 (SC)

13. Mr. Gandhi also relies on the decision of the Karnataka High Court in the case of Bosch Limited vs. Assistant Commissioner of Income Tax-LTU Bangalore², in Writ Petition No. 2705 of 2015 dated 15th October 2015 to contend that this decision dealt with a similar issue on waiver of interest charged under Section 234C of the Income Tax Act referring to paragraph 2(b) of the Notification dated 26th June 2006. He submitted that this decision is applicable to the facts of the present case. He would submit that on similar reasons, as held by the Karnataka High Court in the said case, the impugned order in the present case ought to be quashed and set aside and the petitioner ought to be granted waiver of interest as prayed for.

14. On the other hand, Mr. Sharma, learned counsel for the Revenue has vehemently opposed all submissions and contentions made on behalf of the petitioner. He has placed strong reliance while emphatically referring to the contents of the impugned order. According to Mr. Sharma, in light of the reasons set out in the impugned order, there is no justification to interfere with the same, as according to him, the petitioner's application for waiver was an after thought, as is clear from the facts of the case. It is submitted that the impugned order is correct and justified both on facts and in law, warranting no interference in the proceedings. Mr. Sharma would contend that the impugned order justifies the refusal of granting waiver of interest

² 2016 65 taxmann.com; 170 (Karnataka)

which is discretionary. Such discretion according to him is appropriately exercised, as there is nothing arbitrary in rejecting the plea of the petitioner for grant of waiver of interest under Section 234C of the Income Tax Act, which is by a reasoned order. He also relied on the Affidavit-in-Reply filed by Mr. Yashpal Singh, Dy. Commissioner of Income Tax on behalf of respondent in support of his submissions to justify the legality and correctness of the impugned order.

C. Findings/Consideration:-

15. We have heard learned counsel for the parties and with their assistance, we have perused the record. A perusal of the application of the petitioner dated 9th November 2022 for waiver of interest under Section 234C of the Income Tax Act addressed to the respondent No.1 would indicate that the petitioner has set out several reasons to justify its prayer for waiver of interest, elaborated in paragraph 3 of the said application. The thrust being the sudden outbreak of the COVID-19 pandemic which prevented the petitioner from correctly/properly estimating the income/book profits for paying the Advance Tax for the A.Y. 2021-22. It is stated that the pandemic brought about severe financial constraints and adverse impact on the petitioner's overall earnings and its revenue. It is also stated that even the World Health Organization ("**WHO**" for short) recognised the COVID-19

pandemic as a crisis of the century. The said application places reliance on certain decisions including that of Bosch Ltd vs. ACIT (cited *supra*) to justify the case of the Assessee on waiver of interest under Section 234C of the Income Tax Act.

16. We have carefully perused the impugned order. It appears to us that the impugned order in its findings has nowhere considered the primary submission of the petitioner on waiver of interest, attributable to the COVID-19 pandemic. We find that there is no reference let alone findings on such submission of the petitioner, which is stated to be fundamental to the case of the petitioner as set out in its application dated 9th November 2022. There is another contention that the impugned order also fails to consider and/or deal with the position in law as reflected in the decisions cited and relied upon by the petitioner in its application dated 9th November 2022, let alone dealing with the same.

17. We find substance on such submissions of Mr. Gandhi. In our view, the impugned order ought to have addressed these issues as flagged by the petitioner in supporting its case for grant of waiver of interest under Section 234C of the Income Tax Act as set out in the application of the petitioner dated 9th November 2022. Such approach of Chief Commissioner of Income Tax would show non-application of mind to the material contentions raised

by the petitioner. Further, the other statutory provisions and/or the scheme of the Act, on which the petitioner intends to support the case of the petitioner, in the given facts and circumstances, also lacks consideration in the impugned order. It was apposite for the Petitioner to raise contentions relying on the decisions cited before us, which also needs to be taken into consideration by the CCIT.

18. In view of the above discussion, considering the peculiar facts and circumstances of the case, we deem it to be fit and proper to quash and set aside the impugned order dated 30th March 2024 passed by respondent No.1; and remand the proceedings to the respondent No.1 for a *denovo* consideration of the petitioner's waiver application to be decided on its own merits and in accordance with law in the light of our observations and strictly without being influenced by the impugned order. This be done within a period of eight weeks from the date of this order. All rival contentions of parties are expressly kept open on facts and law.

19. Needless to mention that respondent No.1 will pass a reasoned order in accordance with law after hearing the parties.

20. The petition is allowed in the above terms. No order as to costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)

Digitally
signed by
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SUBHASH
LOKHANDE
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