CBDT circular clarifying on payment of interest on refund under Section 244A of the Income-tax Act of excess TDS deposited under the provisions of the Income-tax Act

Recently, the Central Board of Direct Taxes (CBDT) has issued clarifications on quite a few contentious issues to put at rest controversies arising from such issues and foster a litigation free environment.

CBDT issued a Circular dealing with the payment of interest on refund under Section 244A of the Income-tax Act, 1961 (the Act) of the excess tax deducted at source (TDS) deposited under Section 195 of the Act.

The Circular is summarised as follows:

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 procedure for refund of tax deducted at source under Section 195 of the Act to the person deducting the tax is delineated in CBDT Circular No. 7/2007.

The Supreme Court in the case of Tata Chemical Limited, held as follows:

“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.”

In view of the Supreme Court’s decision, it is settled that if a resident deductor is entitled for 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.

CBDT advised that no appeals may henceforth be filed on this ground by the tax department, and appeals already filed on this issue may not be pressed upon.

---

1 Circular No. 11/2016 dated 26 April 2016
2 Section 244A of the Act provides that the taxpayer shall be entitled to receive interest at the rate of one-half percent for the specified period on the amount of refund that becomes due to the taxpayer under the Act.
3 Circular No. 7 dated 23 October 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.

---

4 Tata Chemicals Ltd. Civil Appeal No. 6301 of 2011 26 February 2014 (SC)
Our comments

In line with the government’s intention to create a litigation free environment, CBDT has issued a Circular clarifying on payment of interest on refund under Section 244A of excess TDS deposited under Section 195 of the Act.

CBDT, while referring to the Supreme Court’s decision has stated 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.

Further, CBDT has instructed the tax department not to file any appeal on this ground or not to press this issue in the pending cases.
The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2016 KPMG, an Indian Registered Partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

© 2016 KPMG, an Indian Registered Partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.