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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 10th February, 2026.*

\+ ITA 26/2026

PR COMMISSIONER OF INCOME TAX 4 NEW DELHI

.....Appellant

Through: Mr. Shlok Chandra, SSC with Ms. Naincy Jain, JSC.

versus

HCL INFOTECH PVT LTD .....Respondent

Through: Mr. Rohit Jain & Mr. Deepesh Jain, Advocates.

J U D G M E N T

DINESH MEHTA, J. (*Oral*)

CM APPL. 3575/2026 (*Delay in Re-filing)*

1. The instant application has been filed under Section 5 of the Limitation Act, 1963 read with Section 151 of CPC, seeking condonation of 690 days delay in re-filing the appeal.
2. For the reasons stated in the application, the delay is condoned.
3. The application is allowed.

CM APPL. 3574/2026 (*Exemption)*

4. Exemption allowed, subject to all just exceptions.
5. The application stands disposed of.

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6. The present appeal arises out of the order dated 15.09.2023, passed by the Income Tax Appellate Tribunal, Bench "B", New Delhi *(hereinafter referred to as the 'Tribunal')*, whereby the Tribunal has rejected the appeal

that was filed by the appellant against the order dated 06.06.2019, passed by the Commissioner of Income Tax (Appeals)-4, New Delhi *(hereinafter referred to as 'CIT(A)')*.

7. The facts giving rise to the present appeal are that the respondent had initially filed its original return of income on 30.11.2014 declaring a loss of Rs. 129,36,64,391/- and claimed refund of Rs. 15,38,86,689/-.

8. During the period interregnum, the respondent had submitted an application for a composite scheme of arrangement between it, its subsidiary companies, holding company which came to be approved under Section 391 of the Companies Act, 1956 vide order dated 30.10.2013 passed by this Court. Accordingly system integration undertaking came to be merged with the respondent company w.e.f. 01.11.2013 with the appointed date, being 01.01.2013.

9. Consequent to the merger and the restructuring which had taken place, the respondent filed a revised return of income on 31.03.2016 and declared a loss of Rs. 130,25,67,160/- and claimed additional TDS credit/refund of Rs. 10,24,74,419/- making the total refund of the TDS to Rs. 25,63,61,108/-.

10. It is the respondent's assertion that due to some technical glitch, though an acknowledgement of filing the revised return was issued but no TDS claim could be reflected when it filed/uploaded the return. Hence, without any delay, it filed a complaint before the Centralised Processing Centre *(hereinafter referred to as 'the CPC')* on 04.04.2016 flagging that due to some technical glitch, TDS credit was not reflected in its return of income, though it was duly shown in the XML file which was uploaded.

11. Vide letter dated 06.04.2016, the respondent informed the Assessing

Officer as well about the said technical glitch and the factum of having filed complaint before the CPC. Along with the letter aforesaid, the respondent furnished a copy of the acknowledgement of the revised return for assessment year 2014-15; copy of computation of revised return of income; party-wise list of TDS claimed and screenshot of the complaint lodged with the CPC.

12. The Assessing Officer thereafter passed an assessment order under Section 143(3) of the Income Tax Act, 1961 *(hereinafter referred to as 'the Act of 1961')*. Though he had taken note of the factum of restructuring and filing of the revised return and made certain adjustments to the income/loss claimed by the respondent-assessee, but no amount was refunded in relation to the TDS claim made by the respondent.

13. On 25.01.2018, the respondent filed an application under Section 154 of the Act of 1961, seeking rectification of the assessment order and claiming refund of the tax which has been deducted from the payments made to it.

14. The Assessing Officer passed an order dated 26.04.2018, pursuant to rectification application so filed by the petitioner and granted a refund of the entire tax deducted from its source. He, however, did not grant interest under Section 244A of the Act of 1961 by observing that the delay in claiming TDS was attributable to the respondent-assessee.

15. The respondent preferred an appeal under Section 250 of the Act of 1961 before the CIT(A) who allowed the appeal by discussing the facts in detail and held that there was no delay on the part of the respondent. He, therefore, held that the respondent was entitled for interest under Section 244A of the Act of 1961.

16. Against the order of the CIT(A), the appellant-department preferred an

appeal before the Tribunal, which affirmed the order passed by the CIT(A) vide its order dated 15.09.2023.

17. Mr. Shlok Chandra, learned SSC for the appellant, submitted that the respondent-assessee had filed its original return of income on 30.11.2014 and the revised return on 31.03.2016 and thereafter moved rectification application belatedly, i.e. on 25.01.2018, which was expeditiously disposed of by the Assessing Officer on 26.04.2018.

18. Having apprised the Court about the relevant dates, he argued that having filed revised return on 31.03.2016, the respondent-assessee waited for about 2 years (22 months), and the same was allowed by the Assessing Officer without any delay vide its order dated 26.04.2018. He argued that in the present facts, the interest under Section 244A of the Act of 1961 is not payable to the respondent. He added that the CIT(A), so also the Tribunal, have erred on facts and in law inasmuch as the delay in getting the refund is majorly attributable to the respondent-assessee.

19. Learned SSC for the appellant invited Court's attention towards sub-section (2) of Section 244A of the Act of 1961 and submitted that in the event, when the delay in processing of the refund is due to the fault of the assessee, it is not entitled for refund under Section 244A of the Act of 1961.

20. In support of his stand, learned counsel relied upon judgment of Kerala High Court, rendered in the case of **State Bank of India vs. The Chief Commissioner of Income Tax** reported in [2022] 286 taxman 650(Kerala) and submitted that the appeal deserves to be allowed and the orders passed by the CIT(A) so also the Tribunal are liable to be set aside.

21. Mr. Rohit Jain, learned counsel for the respondent-assessee, on the

other hand, submitted that the facts as narrated by Mr. Shlok Chandra, learned counsel for the appellant-Department are not complete. He submitted that if the record and the order dated 06.06.2019 passed by the CIT(A) are examined, it is clear that the respondent-assessee had to file an application for rectification because of the subsequent development inasmuch as a scheme of arrangement was approved by the High Court on 30.10.2013 which came into effect on 01.11.2013 vide which one unit of System integration business of the holding company came to be merged with the respondent-company and due to legal fiction the assets and liabilities of the transferor company became the assets and liability of the respondent-company, so also the loss of such company.

22. He submitted that though the scheme of arrangement was approved by this Court vide order dated 30.10.2013 with appointed date 01.01.2013 but after the same was done the accounts of the respondent-company were recasted which took substantial time and the revised return came to be filed thereafter.

23. He submitted that the respondent-assessee was therefore, justified in filing the revised return on 31.03.2016 and submitted that so far as the period after the revised return had been filed is concerned, the entire fault lies with the appellant-department and its software maybe the Assessing Officer is not responsible for it.

24. He nevertheless argued that maybe the refund remained pending with the department because of the fault of the software system but in any case the respondent-assessee cannot be blamed for the delay as there is none so far as the respondent is concerned.

25. Learned counsel argued that if provision of sub-section (2) of Section 244A of the Act of 1961 are taken into account, it clearly postulates that the delay in proceedings should be attributable to the assessee and whether such period is to be excluded for the purpose of payment of interest under Section 244 is to be decided by the 'Principal Chief Commissioner or Chief Commissioner' or 'Principal Commissioner or Commissioner' and not by the Assessing Officer. He therefore argued that if any period was to be excluded, the same could be excluded by the authority mentioned under sub-section (2) of Section 244 and not by the Assessing Officer himself.

26. Mr. Rohit Jain, learned counsel for the respondent-assessee, relied upon the following judgments in support of his submissions:

i. **Ajanta Manufacturing Ltd. v. Deputy Commissioner of Income-tax;** reported in [2016] 72 taxmann.com 148 (Gujarat).

ii. **Chetan N. Shah v. M.K. Moghe, Commissioner of Income-tax-1, Mumbai;** reported in [2015] 53 taxmann.com 18 (Bombay).

27. Mr. Shlok Chandra, learned counsel for the appellant, in rejoinder submitted that even if the first part of delay (i.e. from 30.11.2014 to 31.03.2016) is considered, it is to be seen that this Court approved the scheme of arrangement on 30.10.2013 but the respondent-assessee revised its return as late as on 31.03.2016 and did nothing besides writing one letter to CPC dated 04.04.2016.

28. Heard learned counsel for the parties and perused the relevant material, including the provision of Section 244A, more particularly, Sub-Section (2) thereof.

29. Before dilating upon the basic issue of the time lapse between the filing

of the return and acceptance of rectification application, we would like to reproduce relevant part of the assessment order, which throws light on the facts evincing as to how the respondent-company lost its right to claim additional TDS accrued.

> *"2. The assessee company is engaged business of providing hardware solutions business, system integration business, security business, sale of office automation business. During the year the assessee company had a turnover of Rs. 1442.00 crores as compared to Rs. 569.43 crores in last year. During the year there was a order of the Hon'ble Delhi High Court sanctioning a composite scheme of arrangement effective from 01.11.2013 with appointed date of 01.01.2013 between the company and its holding company namely, HCL Infosystems Ltd. and fellow subsidiaries companies namely, HCL Services Ltd., HCL Learning Ltd. and HCL Infocom Ltd. The company HCL infocom Ltd merged with the holding company. The holding company HCL Infosystems Ltd. transferred its various undertakings to respective subsidiary company. Accordingly, holding company transferred the system integration undertaking to the assessee company effective from 01.11.2013 with appointed dated 01.01.2013 for Nil consideration. The assessee company re-casted its accounts forthe period from 01.01.2013 to 31.03.2013 and filed revised return for the A.Y. 2013-14. Further, the assessee company, re-casted its accounts for the transactions from 01.04.2013 to 31.10.2013 from the accounts of its holding company namely HCL Infosystems Ltd."*

30. On perusal of the afore quoted portion out of the assessment order, it is clear that this is because of the fact that one unit of respondent's holding company, namely, HCL Infosystems, Ltd. came to be merged with the respondent, which brought with it assets, liabilities, so also the loss and the TDS deducted from the payments made to such unit of the amalgamating company.

31. As claimed by the respondent-assessee and accepted by the CIT(A), the respondent-company had to recast its books of accounts to bring the same in tandem with the order dated 30.10.2013 passed by the Delhi High Court. It is

after such recasting of the accounts that the respondent-company filed its revised return on 31.03.2016.

32. It is not in dispute that while the revised return was filed by the respondent-company on 31.03.2016 claiming a refund of Rs. 25,63,61,108/- the TDS could not be claimed because of the technical glitch or system error about which the respondent-assessee had not only informed the Assessing Officer but had also lodged a complaint before the CPC (ticket number 4039829) by way of communications dated 06.04.2016 and 04.04.2016 respectively.

33. Maybe the Assessing Officer processed the rectification application within a reasonable time and has allowed the same vide order dated 26.04.2018 but while doing so, though he allowed the refund of the TDS so claimed by the respondent but did not pay the applicable interest thereupon as per Section 244A of the Act of 1961.

34. It will not be out of place to reproduce sub-section (2) of Section 244A of the Act of 1961 as the interpretation thereof is the bone of contention before the rival parties.

> *"244A....*
> *(2) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee or the deductor, as the case may be, whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable under sub-section (1) or (1A) or (1B), and where any question arises as to the period to be excluded, it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision thereon shall be final."*

35. According to us, if a natural meaning is given to sub-section (2) of Section 244A, it is clear that an assessee is entitled for interest under Section 244A of the Act of 1961 as a matter of course and it is only in exceptional

circumstances that the same can be denied in the event of the assessee himself being in default or remaining at fault.

36. Looking at the language used in sub-section (2) of Section 244A of the Act of 1961, we are of the firm opinion that in case, the Assessing Officer is of the view that the delay in processing the request for refund has been caused for reasons attributable to the assessee, it is 'Principal Chief Commissioner or Chief Commissioner' or 'Principal Commissioner or Commissioner' who shall decide the question as to which period is to be excluded.

37. In other words, in case some period or a part of the period is to be excluded from the period for the purpose of calculation of interest, this issue has to be decided by the authorities prescribed under sub-section (2) of Section 244A. The Assessing Officer himself cannot take onto himself power and deprive an assessee from the interest payable under Section 244A of the Act of 1961.

38. A perusal of the order dated 26.04.2018 shows that the Assessing Officer had given shoddy reasons for denying the interest by merely writing a line that "the interest under Section 244A is not allowed in this case as there is a lapse on the part of the assessee in claiming the same in its revised return of income".

39. Though he has written 7-8 lines to the effect, but the same do not constitute a valid reason. It will not be out of place to reproduce the so-called reasons given by him in the impugned order.

> *"It is pertinent to mention here that at the time of revised return filed by the Assessee, the TDS was not claimed by the assessee. But as per the AIR information available on the system, the TDS is reflected in case of HCL Infotech and HCL Infosystems in their respective 26AS. The assessee has submitted Indemnity Bond in respect of claim of TDS and has declared Income in respect of these TDS in the return of HCL*

Infotech, in compliance to direction of Hon'ble High Court wherein the scheme of arrangement was approved. The indemnity bond and the said claim of TDS has been however filed with this application on 31.01.2018. Hence, the interest u/s 244A is not allowable in this case, as there is a lapse on the part of the assessee in claiming the same In its revised Return of Income."

40. According to us, having recorded assessee's contention that the TDS was though reflected in the Form no.26AS of the respondent-assessee but was not reflected, when the revised return was filed, the AO ought not to have denied interest by saying that there was a lapse on the part of the assessee in claiming the same in its revised return of income.

41. According to us, the finding as recorded by Assessing Officer was completely erroneous.

42. Be that as it may. The CIT (A) has dealt with the facts of the case and given reasons and recorded a finding while accepting the assessee's explanation and held that there was no lapse on part of the assessee and since the Tribunal has also affirmed the same, we do not feel that any question of law, much less a substantial question of law arises, which warrants our interpretation or answer.

43. The appeal alongwith pending applications stands disposed of.

DINESH MEHTA
(JUDGE)

VINOD KUMAR
(JUDGE)

FEBRUARY 10, 2026/*nk*