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

\+ ITA 629/2004

THE COMMISSIONER OF INCOME TAX ..... Appellant

Through Mr. Raghvendra Singh and Mr. Ashok Manchanda, Advocate.

versus

M/S SIEL LTD. ..... Respondent

Through Mr. Mayank Nagi, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE PRATHIBA M. SINGH

ORDER

% **08.12.2017**

This appeal by the Revenue, which relates to assessment year 1997-98, arises from ITA No.1025/DEL/1999 and was admitted for hearing on the following two substantial questions of law:-

> "(1) Whether the provision for charging of statutory interest under Section 234B and 234C are applicable to an assessee paying Minimum Alternative Tax (MAT) under Section 115JA of the Income Tax Act, 1961?
>
> (2) Whether the Tribunal was right in holding that the Assessing Officer could not have charged interest under Section 234B and 234C of the Income Tax Act, 1961 while processing the return under Section 143(1)(a) of the aforesaid Act as it was debatable issue?"

Counsel for the parties accept that the first question of law is covered in favour of the Revenue and against the assessee by the decision of the Supreme Court in ***Joint Commissioner of Income Tax Vs. Rolta India Ltd.***, (2011) 330 ITR 470 (SC).

With regard to the second question, counsel for the respondent-assessee has submitted that subsequently the regular assessment order under Section 143(3) was passed and in terms of the said order, the respondent-assessee has paid interest under both Section 234B and Section 234C for the entire period which is beyond the period covered by the order under Section 143(1). He has placed on record a copy of the income tax computation form dated 26th February, 2001 in support thereof.

We take the statement made by the counsel for the respondent-assessee on record and hold that the respondent-assessee himself admits that he is liable to pay interest under Section 234B and Section 234C on account of short-fall in payment of advance tax.

The two questions of law are accordingly answered in favour of the Revenue and against the respondent-assessee. We also take on record the statement made by the counsel for the respondent-assessee, on instructions, that interest under Sections 234B and C has already been paid. No costs.

SANJIV KHANNA, J.

PRATHIBA M. SINGH, J.

DECEMBER 08, 2017
NA