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

INCOME TAX APPEAL NO.1180 OF 2016

Pr. Commissioner of Income Tax-2 .. Appellant

v/s.

M/s. State Bank of India .. Respondent

Mr. Suresh Kumar for the appellant
Mr. Percy Pardiwalla, Senior Counsel a/w Mr. Atul Jasani for the respondent

CORAM : AKIL KURESHI &
M.S. SANKLECHA, J.J.

DATED : 21st JANUARY, 2019

P.C.

1. The Revenue is against the judgment of Income Tax Appellate Tribunal ("the Tribunal" for short) raising following question for our consideration :-

> *(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in directing the Assessing Officer to grant interest u/s 244A from 1st April itself, when the amount of refund became due for the first time because of the order of the appellate authority and was delayed for reasons attributable to the assessee?*

2. The issue pertains to interest claimed by the assessee under Section 244A of the Income Tax Act, 1961 ("the Act" for short) which the Assessing Officer declined primarily on the ground that the reason for the assessee to receive refund was delayed due to the assessee's cause.

3. We notice that in case of very assessee in another assessment year, the Revenue had raised identical question before this Court in Income Tax Appeal No.1218 of 2016 challenging the judgment of the Tribunal granting such interest. Such appeal was dismissed on 4th January, 2019.

4. Additionally, we also notice that the assessee's claim for refund arose out of an order passed by the Commissioner of Income Tax (Appeals) [CIT(A)]. While giving effect to the CIT(A) order, since the Assessing Officer did not grant the interest under Section 244A of the Act on such refund, the assessee had approached the Commissioner by filing a petition for revision under Section 264 of the Act in which the Commissioner had directed payment of interest. In view of said order of Commissioner, the Revenue could not have argued that the interest was not payable.

5. In the result, the appeal is dismissed.

(M.S. SANKLECHA, J.) **(AKIL KURESHI, J.)**