IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

CORAM

THE HONOURABLE **Dr. JUSTICE ANITA SUMANTH**

W.P.No.31291 and 31292 of 2005
& WPMP.No.34289 and 34290 of 2005

M/s.Swagat Hosiery Mills,
no.67, Fifty Feet Road,
Lakshmi Nagar,
Tiruppur-641 602 ...Petitioner in WP.No.31291 of 2005

Thillainathan Textiles
No.67, Fifty Feet Road,
Lakshmi Nagar,
Tiruppur-641 602 ...Petitioner in WP.No.31292 of 2005

Vs.

1.The Income Tax Settlement Commission,
Additional Bench,
488-489, Anna Salai
Chennai-600035
2.Commissioner of Income Tax, ii, Coimbatore
Income Tax Office,
Race Course,
Coimbatore
3.Income Tax Officer,
Ward 1(3),
Tirupur ...Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records o the first respondent Income Tax Settlement Commission, Additional Bench, Chennai in its file Setlement Application Nos.641/CBE/2/2000-IT and 641/CBE/1/2000-IT for assessment years 1996-97 to 1999-2000 quash the impugned orders dated 22.03.2005 in so far it relates to the issue of levy of interest u/s.234A, 234B and 234C.

For Petitioner : Mr.R.Kumar

For Respondent : Mr.Hema Muralikrishnan
Senior Standing Counsel

ORDER

In these writ petitions the petitioner prays for a writ of certiorari, quashing order dated 22.03.2005 passed by the Income Tax Settlement Commission in so far as it relates to the levy of interest under Sections-234A, 234B and 234C of the Income Tax Act, 1961 (in short 'Act').

2. The Settlement Commission has dealt with this issue at paragraph 12 as follows:

> ***12.Waiver of interest-***
>
> *12.1 The A.R. Has requested that the issue of levy of interest u/s 234B may be kept pending till the decision of the Supreme Court in M/s.Transworld Credit and Investment Co.Pvt. Ltd. (page 47 of APB-III). This request cannot be acceded to at this stage. However, the applicants will be free to take recourse to remedial measures, if found necessary, as and when the decision in the above case is pronounced by the Supreme Court. The interest u/s 234B shall be charged up to the date of order u/s145(4) as per Supreme Court's decision in the case of M/s.Hindustan Bulk Carriers [2003] 259 ITR 449.*

3. The latest exposition of law by the Supreme Court on this issue, which resolves this matter once and for all is in the case of *Brij Lal and Others Vs. Commissioner of Income Tax* [328 ITR 477]. In regard to the issue as to terminal point upto when interest may be levied under Section 234B, that is, whether up to stage of admission under Section 245D(1) or date of final order under Section 245 D(4), the Bench has held that interest under Section 234B would be payable only up to the stage of admission, that is, upto date of order under Section 245(D)(1) of the Act.

4. Thus, to this extent the order of the Settlement Commission is incorrect and stands reversed. The writ petitions are allowed. No costs.

13.09.2019

Index: Yes / No
Speaking Order / Non Speaking Order

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Dr. ANITA SUMANTH, J.,

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