



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

201

CWP-4789-2001 (O&M)

Date of Decision: 27.10.2025

THE KARNAL COOP. SUGAR MILLS LTD.

...Petitioner

Vs.

COMMISSIONER OF INCOME TAX AND ANR.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

HON'BLE MS. HARPREET KAUR JEEWAN

Present:- Mr. Rajesh Garg, Senior Advocate with
Ms. Neha Matharoo, Advocate and
Mr. Mandeep Singh, Advocate
for the petitioner.

Mr. Sanjay Bansal, Senior Advocate with
Mr. Gurdeep Singh, Advocate,
Mr. Vidit Jain, Advocate and
Ms. Gauri Neo Rampal, Senior Standing Counsel
(*Through V.C.*) for the respondent-Income Tax Department.

Ms. Jeotsnaa Johri, PCIT, Rohtak (*through V.C.*)

Mr. Aman Bhisla, JCIT, Karnal (*through V.C.*)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 07.12.1998 whereby joint commissioner of Income Tax, Karnal has raised demand of interest to the tune of Rs.74,68,389/- under Section 220(2) of Income Tax Act, 1961 (for short '1961 Act').

2. The petitioner is a cooperative society registered under Haryana Co-operative Societies Act, 1984. The respondent vide order dated 08.12.1994 framed assessment under Section 143(3) of 1961 Act

whereby demand of Rs.1,24,40,631/- was created. The respondent issued notice dated 14.12.1994 under Section 156 whereby petitioner was asked to pay tax liability by 13.01.1995. The petitioner in compliance of aforesaid notice deposited a sum of Rs.82,93,600/- by 28.02.1995. The petitioner also preferred an appeal before Commissioner of Income Tax (Appeals) who vide order dated 25.07.1995 allowed the same. On account of orders of First Appellate Authority, the respondent after making adjustment of demand relating to another assessment year refunded tax deposited by petitioner. The refund was sanctioned along with statutory interest of Rs.6,63,488/-. The revenue on one hand refunded amount already deposited by petitioner along with interest and on the other preferred an appeal before Income Tax Appellate Tribunal (for short 'Appellate Tribunal'). The Appellate Tribunal vide order dated 23.02.1998 allowed appeal of the revenue. The Assessing Authority with intent to give effect to order of Appellate Tribunal issued notice dated 07.09.1998 whereby demand of Rs.1,31,04,719/- was raised. The said demand included amount of Rs.6,63,488/- i.e. interest which was paid to petitioner on account of order of First Appellate Authority. The petitioner deposited tax liability as well as interest which was refunded to it. The respondent by impugned order dated 07.12.1998 has raised demand of interest to the tune of Rs.74,68,389/- under Section 220(2) of 1961 Act.

3. Learned counsel for the petitioner submits that petitioner was served notice under Section 156 of 1961 Act after passing of order by Assessing Authority as well as orders passed by Appellate Tribunal. The petitioner complied with notice issued under Section 156 of 1961 Act

which was issued after demand created by Assessing Authority. The respondent served fresh notice under Section 156 of 1961 Act after orders of Appellate Tribunal. As per Section 220(2) of 1961 Act, interest is payable if liability is not discharged within 30 days of notice under Section 156. The petitioner had complied with first notice issued under Section 156 and First Appellate Authority set aside order passed by Assessing Authority, thus, first notice ceased to exist. The respondent issued second notice under Section 156 after orders passed by Appellate Tribunal. The liability of interest commences on the expiry of 30 days from the date of notice under Section 156. The respondent is wrongly relying upon first notice issued under Section 156.

4. *Per contra*, learned counsel for the respondent submits that as per Circular dated 03.04.1982 issued by Central Board of Direct Taxes, interest is payable as per first notice under Section 156. Second notice relates back to first notice. Interest is compensatory in nature and as per judgment of Hon'ble Supreme Court passed in '**Jaykishor Chaturvedi & Etc. Vs. Securities and Exchange Board of India**', 2025 SCC OnLine SC 1441, interest is payable considering first notice under Section 156.

5. I have heard learned counsel for the parties and perused the record of the case.

6. From the perusal of record and arguments of both sides, it is evident that the issue lies in narrow compass. As per petitioner, interest is payable as per second notice issued under Section 156 whereas as per Revenue, interest is payable as per first notice issued under Section 156.

7. It is settled law that clarifications/circulars/instructions

issued by Board/Government are not binding upon courts which are supposed to interpret and rely upon statutory provisions. A five judge bench of the Apex Court in ***CCE v. Ratan Melting & Wire Industries, (2008) 13 SCC 1*** has held that circulars/clarifications issued by government are not binding upon court which has to declare what the particular provision of statute says and it is not for the executive. The court has held:

“7. Circulars and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the court to direct that the circular should be given effect to and not the view expressed in a decision of this Court or the High Court. So far as the clarifications/circulars issued by the Central Government and of the State Government are concerned they represent merely their understanding of the statutory provisions. They are not binding upon the court. It is for the court to declare what the particular provision of statute says and it is not for the executive. Looked at from another angle, a circular which is contrary to the statutory provisions has really no existence in law.”

In view of above-cited judgment, inescapable conclusion is that circular dated 03.04.1982 issued by Central Board of Direct Taxes and relied upon by respondent binding is not binding upon this Court. Matter needs to be examined in the light of statutory provisions.

8. It is Section 220 which creates liability of interest, meaning thereby, Section 220 is a charging section. Section 220(2) categorically provides that interest is payable if amount specified in notice under

Section 156 is not paid within period specified in the notice. For the ready reference relevant extracts of Section 156 and 220 are reproduced as below:-

“156. Notice of demand.—(1) When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Assessing Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable:

Provided that where any sum is determined to be payable by the assessee under sub-section (1) of section 143, the intimation under that sub-section shall be deemed to be a notice of demand for the purposes of this Section.

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220. When tax payable and when assessee deemed in default.—(1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156 shall be paid within thirty days of the service of the notice at the place and to the person mentioned in the notice :

Provided that, where the Assessing Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty days aforesaid is allowed, he may, with the previous approval of the Joint Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty days aforesaid, as may be specified by him in the notice of demand.

(2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at one per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in

sub-section (1) and ending with the day on which the amount is paid:

Provided that, where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.”

9. From the perusal of Section 156, it is evident that when any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the assessing officer shall serve upon the assessee, notice of demand in prescribed form specifying the sum so payable. Section 220(2) provides that if amount specified in the demand notice is not paid within prescribed period, the assessee shall be liable to pay simple interest @ 1% for every month or part of month comprised in the year commencing from the day immediately following the end of the year as specified in sub section (1).

10. In the case in hand, the assessing authority issued notice under Section 156 on 14.12.1994. The petitioner duly complied with said notice. It deposited amount of tax. The First Appellate Authority allowed appeal of the petitioner and respondent refunded tax along with interest. The Appellate Tribunal allowed appeal of the Revenue, resultantly petitioner became liable to pay tax along with interest which was already paid to it. The respondent issued notice under Section 156 on 07.09.1998 whereby an attempt was made to give effect to orders of

Appellate Tribunal. The respondent is of the opinion that second notice issued under Section 156 has no significance and interest under Section 220(2) is payable as per first notice under Section 156.

11. In Section 156(1), expression “*any order passed under this Act*” has been used. In the said Section, it has also been provided that when any tax or interest is payable in consequence of any order. It means liability must arise in consequence of orders passed under the Act. In the case in hand, the liability accrued as soon as order was passed by Assessing Officer. The liability assessed by assessing officer was set aside by First Appellate Authority. As soon as Appellate Authority set aside assessment order, notice issued under Section 156 lost its significance. It ceased to exist. The liability again accrued as soon as Appellate Tribunal allowed appeal of the Revenue. The Revenue issued fresh notice under Section 156 which was in consequence of orders passed by Appellate Tribunal under Section 254 of 1961 Act. Section 220 is a charging section. It clearly provides that liability of interest would commence if liability is not discharged within period specified in notice issued under Section 156. The respondent issued notice under Section 156 on 07.09.1998. One month period expired on 06.10.1998, thus, liability of interest commenced from 07.10.1998. The petitioner was not liable to pay interest as per first notice issued under Section 156 because said notice ceased to exist as soon as first appellate authority allowed appeal of the petitioner and revenue refunded already deposited tax along with interest.

12. In the wake of above discussion and findings, this Court is of the considered opinion that petitioner was liable to pay interest w.e.f. 07.10.1998 as per Section 220(2) of 1961 Act.
13. The respondent is at liberty to calculate interest w.e.f. 07.10.1998 till the date of payment.
14. Allowed in above terms.
15. Before parting with the judgment, we would hasten to add that under Central Excise Act 1944; Customs Act, 1962; Central Goods and Services Tax Act, 2017; Chapter V of Finance Act, 1994 (Service Tax) interest is payable from the date tax/duty is payable whereas under Income Tax Act interest as per Section 220(2) of 1961 Act is payable if tax is not paid within period specified in notice under Section 156 of 1961 Act.
16. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

October 27, 2025
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No