



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

201

CWP-4724-2005

Date of Decision: 15.01.2026

IMPACT LEASING PVT. LTD.

...Petitioner

Vs.

ADDITIONAL COMMISSIONER AND ANR.

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL
HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present:- Mr. Pankaj Jain, Sr. Advocate (*through V.C.*) with
Mr. Divya Suri, Advocate and
Mr. Yogesh Kumar Mittal, Advocate
for the petitioner

Ms. Nikita Garg, Jr. Standing Counsel (*through V.C.*)
for respondent-Income Tax

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 02.11.2004 to the extent respondent has rejected its application seeking waiver of interest for the Assessment Year 1996-97 and 1997-98.

2. The petitioner is engaged in the business of hire purchase and finance of automobile. It is generating income in the form of hire purchase charges. As per Section 4 of Interest Tax Act, 1974 (for short '**1974 Act**'), a tax known as interest tax is payable on the income of interest. A taxable person is required to file return of chargeable interest. The assessee is further required to pay advance interest tax. In case of non-filing of return of chargeable interest, as per Section 12 of 1974 Act, there is liability of interest.

As per Section 12A, there is further liability of interest in case of default of

payment of tax in advance. As per Section 12B, there is also liability of interest for deferment of interest tax payable in advance. There was confusion with respect to liability of assessee engaged in the business of hire purchase. Central Board of Direct Taxes (for short 'CBDT') vide Circular No.738 dated 25.03.1996 clarified that in case of hire purchase transactions, the hire charges would be in the nature of interest chargeable to tax under 1974 Act. CBDT vide clarification dated 16.07.1996 clarified that matter is under re-consideration, therefore, assessing officers may not initiate any proceedings in pursuance of Circular dated 25.03.1996. CBDT finally clarified the matter vide Circular No.760 dated 13.01.1998. In view of aforesaid clarification, the petitioner filed returns for the Assessment Years 1994-95 to 1997-98 on 30.04.1998. The petitioner also deposited penal interest. The petitioner thereafter vide application dated 10.03.2000 requested the competent authority to waive penal interest payable under Section 12, 12A and 12B of 1974 Act. The respondent by impugned order dated 02.11.2004 partially allowed petitioner's application. The respondent formed an opinion that waiver is permissible till the date of CBDT Circular dated 25.03.1996. There remained no doubt after 25.03.1996, thus, assessee was supposed to file return as required under Section 7 of 1974 Act. The assessee was also required to pay advance tax as per Section 11 of said Act.

3. Learned Senior Counsel for the petitioner submits that there was confusion in the mind of public at large. Even authorities were not clear about liability of interest on hire charges. The matter was finally clarified by circular dated 13.01.1998. The petitioner submitted returns on 30.04.1998 without intervention of the Department. The assessee voluntarily complied with provisions of 1974 Act, thus, interest under Section 12, 12A and 12B

which is more or less penal in nature was not payable.

4. *Per contra*, learned counsel for the respondent submits that petitioner was supposed to file return after issuance of clarification dated 25.03.1996. There was no occasion to withhold advance tax or return. The liability of interest under Section 12, 12A and 12B is statutory in nature. The respondent has rightly waived interest of two assessment years. Interest post 25.03.1996 could not be waived.

5. We have heard learned counsel for the parties and perused the record.

6. From the perusal of record, it is evident that there was confusion with respect to liability of interest on hire purchase charges. CBDT vide circular dated 26.03.1996 clarified that hire charges would be in the nature of interest chargeable to tax. CBDT issued letter dated 16.07.1996 whereby assessing officers were directed not to initiate proceedings pursuant to circular dated 26.03.1996. The respondent further issued circular dated 13.01.1998 clarifying the matter. As per respondent interest could be waived up to 25.03.1996. The issue was clear after 25.03.1996, thus, assessee was liable to file return and deposit tax. By not filing return and paying tax, it invited liability of interest under Section 12, 12A and 12B. The contention of respondent does not seem to be convincing and cannot be countenanced. If legal position was absolutely clarified by circular dated 25.03.1996, there was no occasion to direct assessing officers not to initiate proceedings by circular dated 16.07.1996. There was further no necessity to issue circular dated 13.01.1998. Issuance of circulars dated 16.07.1996 and 13.01.1998 made it clear that question of liability of interest on hire charges was not clear. The petitioner filed returns and discharged its liability as soon as the

matter was finally clarified. It could not be subjected to liability of penal interest. The respondent has waived liability of penal interest for the Assessment Year 1994-95, 1995-96 which indicates that respondent was competent and had jurisdiction to waive interest. It is settled proposition of law that in case of doubt benefit should go to assessee. As per press note dated 29.10.1999 where return is filed voluntarily without detection by department, assessee is entitled to waiver of interest payable under Section 12, 12A and 12B. In the instant case, assessee voluntarily filed returns without detection by Department and delay took place on account of confusion which was prevailing across the country.

7. In the wake of above discussion and findings, we are of the considered opinion that the impugned order deserves to be modified. Accordingly, impugned order is modified to the extent of denial of waiver of interest for the Assessment Years 1996-97 and 1997-98.

8. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

(AMARINDER SINGH GREWAL)
JUDGE

January 15, 2026
Deepak DPA

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