

CASE NO.:
Appeal (civil) 7966-67 of 1996

PETITIONER:
Commissioner of Income Tax

RESPONDENT:
M/s. Hindustan Bulk Carriers

DATE OF JUDGMENT: 17/12/2002

BENCH:
ARIJIT PASAYAT

JUDGMENT:
J U D G M E N T

ARIJIT PASAYAT, J.

A question of seminal importance relating to the period for which interest in terms of Section 234B of the Income Tax Act, 1961 (in short 'the Act') can be levied when the Settlement Commission (in short 'the Commission') passes an order under Section 245D of the Act, is the subject matter of adjudication in these appeals. These appeals are directed against the common judgment of the Special Bench of the Commission (in Gulraj Engineering Construction Co. In re and Ors. (1995 (215) ITR ATS 1) which dealt with five situations where such questions may arise. The situations according to the Special Bench are as follows:

"(i) The income is determined under Section 143(1) but no regular assessment under Section 143(3) or 144 is made with or without there being a notice under section 143(2) and /or section 142(1).

(ii) A regular assessment is made under Section 143(3) or section 144 in addition to the determination of the income under section 143(1) and an appeal is pending before the first appellate authority.

(iii) Only a return of income is furnished without or in pursuance of a notice under section 142(1) or section 148 and the income is neither determined under section 143(1) nor under section 143(3) or section 144.

(iv) The assessment made under section 143(3) or section 144 is reopened under section 147 and neither any return of income is furnished in response to the notice under section 148 nor is the order of re-assessment made by the Assessing Officer.

(v) A reassessment is made under section 147 read with section 143(3) or section 144 and an appeal is pending before the first appellate authority."

Per majority the Special Bench decided as follows:

"Interest under Section 234B will be chargeable:

In cases I and III up to the date of the order passed by the Settlement Commission under section 245D(4).

In case II up to the date of regular assessment made

under section 143(3) or section 144 of the Act by the Assessing Officer.

In case IV from the date of regular assessment made by the Assessing Officer under section 143(3) or section 144, to the date of the order made by the Settlement Commission under section 245D(4).

In case V to the date of the re-assessment made by the Assessing Officer from the date of regular assessment under section 143(3)/144".

In support of the appeals, learned counsel for the revenue submitted that the view expressed by the Special Bench is clearly unsustainable. Chapter XIX-A which was introduced in the Act makes a distinction between income disclosed by the assessee before the Assessing Officer and undisclosed income disclosed in an application filed before the Commission. In the latter situation, the Commission gets jurisdiction if prescribed conditions are fulfilled. When an assessee files a petition under Section 245C, there is a liability to pay the additional tax in respect of the undisclosed income. An exclusive jurisdiction is conferred on the Commission and its order is conclusive. The expressions 'regular assessment' or 're-assessment' as appearing in Sections 234A, 234B and 234C relate to income which was earlier disclosed before the income-tax authorities. For all practical purposes, the Commission exercises original jurisdiction and the orders passed under Section 245D(4) and consequentially under sub-section (6) are in the nature of original orders determining liability of tax, penalty and interest and quantification thereof. It has to be borne in mind that provisions relating to settlement as appearing in Chapter XIX-A constitute a complete code. Therefore, the view of the Special Bench with reference to regular assessment as defined under Section 2(40), or re-assessment under Section 147 has no relevance. The liability to pay interest under Sections 234A, 234B and 234C, as the case may be, is of mandatory nature as was observed by a Constitution Bench of this Court in Commissioner of Income Tax v. Anjum M. H. Ghaswala and Ors. (2001 (252) ITR 1). The starting point of the terminus for payment of interest is not in dispute. It is only the end point. The same has to be the date on which the order is passed by the Commission under Section 245D and not an earlier point of time.

Per contra, learned counsel for the assessee has submitted that both points of time terminus have been fixed in the provisions, that is, sub-section (4) of each of the aforesaid three provisions. With reference to the expression 'an order of Settlement Commission under sub-section (4) of Section 245D' in these provisions, it is submitted that sub-section (4) deals with the quantum of interest chargeable with reference to the fixed terminus points and it cannot be beyond the date of regular assessment or re-assessment, as the case may be, for the purpose of Section 234B. Alternatively, it is submitted that since no terminus has been provided specifically, there is no liability to pay interest, more so when there is no charging section. Reference was also made to Commissioner of Income Tax v. Express Newspapers Ltd. (1994 (206) ITR 443) to substantiate the stand.

In the present case, the dispute relates to the period for which interest is chargeable under Section 234B. Sections 234A, 234B and 234C relate to three different types of infractions. Under Section 234A, interest is chargeable for default in furnishing a return of income. Levy is attracted when return of income for any assessment year under sub-section (1) or sub-section (4) of Section 139 or in response a notice under sub-section (1) of Section 142 is furnished after the due date or is not furnished. Levy in terms of Section 234B to which the present cases relate, is attracted for defaults in payment of advance tax. The provision reads as follows:

"Section 234B: Interest for defaults in payment of

advance tax.

(1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent for every month or part of a month comprised in the period from the 1st day of April next following such financial year to the date of determination of total income under sub-section (1) of section 143 and where a regular assessment is made, to the date of such regular assessment, on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

Explanation 1- In this section, "assessed tax" means, -

(a) for the purposes of computing the interest payable under section 140A, the tax on the total income as declared in the return referred to in that section;

(b) in any other case, the tax on the total income determined under sub-section (1) of section 143 or on regular assessment,

as reduced by the amount of tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income.

Explanation 2. Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

Explanation 3. In Explanation 1 and in sub-section (3) "tax on the total income determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 143.

(2) Where, before the date of determination of total income under sub-section (1) of section 143 or completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise, -

(i) interest shall be calculated in accordance with the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section;

(ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

(3) Where, as a result of an order of re-assessment or re-computation under section 147, the amount on which interest was payable under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent for every month or part of a month comprised in the period commencing on the day following the date of determination of total income

under sub-section (1) of section 143 and where a regular assessment is made as is referred to in sub-section (1) following the date of such regular assessment and ending on the date of the re-assessment or re-computation under section 147, on the amount by which the tax on the total income determined on the basis of the re-assessment or re-computation exceeds the tax on the total income determined under sub-section (1) of section 143 or on the basis of the regular assessment aforesaid.

(4) 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 263 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 sub-section (1) or sub-section (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years."

The levy is attracted where subject to other provisions in the section in any financial year an assessee who is liable to pay the advance tax under Section 208, has failed to pay such tax or where advance tax paid by such assessee under the provisions of Section 210 is less than ninety per cent of the assessed tax. The beginning point is first day of April next following the relevant financial year. Different end points are prescribed. They are (i) up to the date of determination of total income under sub-section (1) of Section 143; (ii) the date of regular assessment when a regular assessment is made and (iii) where there is an order of re-assessment or re-computation under Section 147, or the difference of assessed income on re-assessment or re-computation and originally assessed income till date of re-assessment or re-computation, as the case may be. Sub-section (3) provides the modalities to be adopted.

Section 234C deals with interest for deferment of advance tax.

As noted above, great emphasis is laid by the assessee on sub-section (4) of Section 245D which, inter alia, provides that where as a result of an order of the Settlement Commission under sub-section (4) of Section 245D the amount on which interest was payable under sub-section (1) or sub-section (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly. From this, according to the assessee, the inference to be drawn has to be that only the quantum of income on which interest is charged which is varied, but the period remains fixed.

One basic feature of Chapter XIX is that it relates to income which was not disclosed before the income-tax authorities. This is evident from Section 245C which reads as follows:

"Section 245C: Application for settlement of cases.

245C(1): An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Assessing Officer, the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless, -

(a) the assessee has furnished the return of income which he is or was required to furnish under any of the provisions of this Act; and

(b) the additional amount of income-tax payable on the income disclosed in the application exceeds one hundred thousand rupees.

(1A) For the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 245D, the additional amount of income-tax payable in respect of the income disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the income disclosed in the application relates to only one previous year, -

(i) if the applicant has not furnished a return in respect of the total income of that year (whether or not an assessment has been made in respect of the total income of that year), then, except in a case covered by clause (iii), tax shall be calculated on the income disclosed in the application as if such income were the total income;

(ii) if the applicant has furnished a return in respect of the total income of that year (whether or not an assessment has been made in pursuance of such return), tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income;

(iii) if the proceeding pending before the income-tax authority is in the nature of a proceeding for reassessment of the applicant under section 147 or by way of appeal or revision in connection with such reassessment, and the applicant has not furnished a return in respect of the total income of that year in the course of such proceeding for reassessment, tax shall be calculated on the aggregate of the total income as assessed in the earlier proceeding for assessment under section 143 or section 144 or section 147 and the income disclosed in the application as if such aggregate were the total income.

(1C) The additional amount of income-tax payable in respect of the income disclosed in the application

relating to the previous year referred to in sub-section (1B) shall be, -

- (a) in a case referred to in clause (i) of that sub-section, the amount of tax calculated under that clause;
- (b) in a case referred to in clause (ii) of that sub-section, the amount of tax calculated under that clause as reduced by the amount of tax calculated on the total income returned for that year;
- (iii) in a case referred to in clause (iii) of that sub-section, the amount of tax calculated under that clause as reduced by the amount of tax calculated on the total income assessed in the earlier proceeding for assessment under section 143 or section 144 or section 147".

(Underlined for emphasis)

Prior to substitution by Finance Act, 1987 w.e.f. 1.6.1987, the proviso to sub-section (1) read as follows:

"provided that no such application shall be made unless the additional amount of income tax payable on the income disclosed in the application exceeds fifty thousand rupees."

The word fifty thousand rupees in the earlier proviso has been substituted by the expression "one hundred thousand rupees" by the Finance Act, 1995 w.e.f. 1.7.1995. Some changes were introduced by Finance Act, 1987 w.e.f. 1.6.1987 in sub section (1B) and (1C) which do not have much importance for the present appeals.

The Commission is not bound to proceed with any application filed under Section 245C as is clear from Section 245D. The special provisions so far as relevant read as follows:

Section 245D: Procedure on receipt of an application under section 245C.

"245D(1)- On receipt of an application under section 245C, the Settlement Commission shall call for a report from the Commissioner and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission may, by order, allow the application to be proceeded with or reject the application :

Provided that an application shall not be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided further that the Commissioner shall furnish the report within a period of forty-five days of the receipt of communication from the Settlement Commission in case of all applications made under section 245C on or after the 1st day of July, 1995 and if the Commissioner fails to furnish the report within the said period, the Settlement Commission may make the order without such report.

- (2) x x x x x
- (2A) Subject to the provisions of sub-section (2B), the assessee shall within thirty-five days of the receipt of a

copy of the order under sub-section (1) allowing the application to be proceeded with, pay the additional amount of income-tax payable on the income disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

(2B) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of income-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

(2C) Where the additional amount of income-tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A).

(2D) x x x x x
(3) Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

(4) After examination of the records and the report of the Commissioner, received under sub-section (1), and the report, if any, of the Commissioner received under sub-section (3), and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorized in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner under sub-section (1) or sub-section (3).

(5) x x x x x

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of tax, penalty or interest] the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at fifteen per cent per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid."

The principles indicated by the Constitution Bench in Anjum's case (supra) are as follows:

- "1. Commission in exercise of its power under Section 245D(4) and (6), does not have the power to reduce or waive interest statutorily payable under Sections 234A, 234B and 234C, except to the extent of granting relief under the Circulars dated 23rd May, 1996 issued by the Board under Section 119 of the Act. While exercising the power derived under the Circulars of the Board, the Commission does not act as a subordinate to the Board but will be enforcing the relaxed provisions of the circulars for the benefit of the assessee in the process of settlement.
2. Interest due under the mandatory provisions like Sections 234A, 234B and 234C has to be included in the settlement.
3. Wherever the Act contemplated power to waive or reduction of interest to be exercised by any particular authority in any particular situation it has done so like in Sections 139(8), 215(4), 216 and Section 220(2A) of the Act.
4. Prior to Finance Act, 1987, the corresponding sections pertaining to imposition of interest used the expression 'may' but the change brought about in the Finance Act, 1987 is a clear indication that the intention of the legislature was to make the collection of statutory interest mandatory. The expression 'shall' is used deliberately."

Sub-section (1) of Section 245C makes it clear that at any stage of a case relating to him an assessee may make an application to the Commission disclosing fully and truly his income which has not been disclosed before the Assessing Officer. (Underlined for emphasis). To put it differently, an assessee cannot approach the Commission for settlement of his case in respect of an income which has already been disclosed before the Assessing Officer. The income disclosed as contemplated is in the nature of voluntary disclosure of concerned income.

Section 245F dealing with powers and procedure of Settlement Commission provides that in addition to the powers conferred on the Settlement Commission under Chapter XIX-A, it has all the powers which are vested in the income-tax authority under the Act. Sub-section (2) is of vital importance and provides that where an application made under Section 245C has been allowed to be proceeded with under Section 245D, the Commission shall until an order is passed under sub-section (4) of Section 245D, subject to the provisions of sub-section (3) of that section have exclusive jurisdiction to exercise the powers and perform the functions of the income-tax authority under the Act in relation to the case. In essence, the Commission assumes jurisdiction to deal with the matter after it decides to proceed with the application and continues to have the jurisdiction till it makes an order under Section 245D. As noted by the Constitution Bench in Anjum's case (supra), Section 245D(4) is the charging section and sub-section (6) prescribes the modalities to be adopted to give effect to the order.

It has to be noted that the language used in Section 245D is "order" and not "assessment". The order is not described as the original assessment or regular assessment or re-assessment. In that sense, the Commission exercises a plenary jurisdiction. The assessee's stand before the Special Bench of the Commission was that there is no charging section for levy of interest. Such a plea did not find acceptance by the Constitution Bench in Anjum's case (supra). The further plea that there is no requirement to pay interest as no points of terminus have been fixed is equally untenable because the Constitution Bench held that the levy is mandatory. Equally, without substance is the plea taken that terminus has to be as provided in relation to disclosed income. It cannot be even countenanced that no interest is chargeable for that portion of the income forming part of the total income as determined by the Commission which was not earlier disclosed before the Assessing Officer.

The Commission's power of settlement has to be exercised in accordance with the provisions of the Act. Though the Commission has sufficient elbowroom in assessing the income of the applicant and it cannot make any order with a term of settlement which would be in conflict with the mandatory provisions of the Act like in the quantum and payment of tax and the interest. The object of the legislature, as noted by the Constitution Bench, in introducing Section 245C is to see that protracted proceedings before the authorities or in Courts are avoided by resorting to settlement of cases. In this process an assessee cannot expect any reduction in amounts statutorily payable under the Act. Under Section 245H, the Commission has the power to grant immunity to the assessee from prosecution and penalty. The immunity extends not only to penal provisions of the Act but to offences under the Indian Penal Code, 1860 (in short 'the IPC'), or under any other Central Act for the time being in force. Benefit of waiver or reduction in the imposition of penalty under the Act with respect to the cases covered by the settlement is extended as provided under Section 245H(1). Here again, the immunity is not available in cases where the proceedings for prosecution for the indicated offences have been instituted before the date of receipt of the application under Section 245C. The immunity granted stands withdrawn in case of failure to pay sum specified in the order of settlement passed under sub-section (4) of Section 245D within the specified time or the extended time.

Harmonising various provisions of the Act and the legislative intent in introducing Chapter XIX-A, the position is indisputable that the end point of the terminus has to be the date on which the Commission passes an order under Section 245D(4). Any other interpretation would lead to absurd result because the assessee who has concealed income is placed at a more advantageous position vis--vis one who has declared his income truly and fairly. By way of illustration it would be seen that a person who has disclosed rupees ten lakhs as income and paid advance tax correctly is in a way deprived use of the amount paid as advance tax for the period during which an assessee who has not disclosed the correct income and has disclosed rupees two lakhs before the Assessing Officer and subsequently goes before the Commission disclosing rupees eight lakhs makes use of the amount which was required to be paid as advance tax. It is for this default in not paying the correct advance tax that interest Section 234B is levied and has to be till the date of order under Section 245D(4).

A construction which reduces the statute to a futility has to be avoided. A statute or any enacting provision therein must be so construed as to make it effective and operative on the principle expressed in *maxim ut res magis valeat quam pereat* i.e. a liberal construction should be put upon written instruments, so as to uphold them, if possible, and carry into effect the intention of the parties. (See *Broom's Legal Maxims* (10th Edition), page 361, *Craies on Statutes* (7th Edition) page 95 and *Maxwell on Statutes* (11th Edition) page 221.)

A statute is designed to be workable and the interpretation thereof by a Court should be to secure that object unless crucial omission or clear

direction makes that end unattainable. (See *Whitney v. Commissioner of Inland Revenue* (1926) AC 37 p.52 referred to in *Commissioner of Income Tax v. S. Teja Singh* (AIR 1959 SC 352), *Gursahai Saigal v. Commissioner of Income Tax, Punjab* (AIR 1963 SC 1062)).

The Courts will have to reject that construction which will defeat the plain intention of the legislature even though there may be some inexactitude in the language used. (See *Salmon v. Duncombe* (1886) 11 AC 627 p.634 (PC), *Curtis v. Stovin* (1889) 22 CBD 513) referred to in *S. Teja Singh's* case (Supra).

If the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation we should avoid a construction which would reduce the legislation to futility, and should rather accept the bolder construction, based on the view that Parliament would legislate only for the purpose of bringing about an effective result. (See *Nokes vs. Doncaster Amalgamated Collieries* (1940) 3 All E.R. 549 (CL) referred to in *Pye vs. Minister for Lands for NSW* (1954) 3 All ER 514 (PC). The principles indicated in the said cases were reiterated by this Court in *Mohan Kumar Singhania v. Union of India* (AIR 1992 SC 1)

The statute must be read as a whole and one provision of the Act should be construed with reference to other provisions in the same Act so as to make a consistent enactment of the whole statute.

The Court must ascertain the intention of the legislature by directing its attention not merely to the clauses to be construed but to the entire statute; it must compare clause with other parts of the law and the setting in which the clause to be interpreted occurs. [See *R.S. Raghunath v. State of Karnataka and Anr.* (AIR 1992 SC 81)]. Such a construction has the merit of avoiding any inconsistency or repugnancy either within a section or between two different sections or provisions of the same statute. It is the duty of the Court to avoid a head on clash between two sections of the same Act. [See *Sultana Begum v. Prem Chand Jain* (AIR 1997 SC 1006)]

Whenever it is possible to do so, it must be done to construe the provisions which appear to conflict so that they harmonise. It should not be lightly assumed that Parliament had given with one hand what it took away with the other.

The provisions of one section of the statute cannot be used to defeat those of another unless it is impossible to effect reconciliation between them. Thus a construction that reduces one of the provisions to a 'useless lumber' or 'dead letter' is not a harmonised construction. To harmonise is not to destroy.

Even though in Section 245D(4) or in section 245D(6), the terminus points for charging interest have not been specifically provided, they have to be charged in the spirit of Sections 234A, 234B and 234C. The interests charged under Sections 245D(2C) and 245D(6A) are for different types of defaults and are not really relatable to Sections 234A, 234B and 234C.

There is another way of looking at the issue. Section 243B(3) provides differently for regular assessment and re-assessment. In a re-assessment, ordinarily income assessed is more than what was determined originally. If two different periods are provided to meet such a situation, it is inconceivable that legislature intended to totally give a go by to interest on the income which for the first time is disclosed before the Commission. By analogy and harmony, the period has to be till the date of Commission's order.

To put it differently, the interests charged in terms of Sections 234A, B and C become payable on the income already disclosed in the returns filed, together with the income disclosed before the Commission. The concerned interest as aforesaid shall be on the consolidated amount of

income, i.e. both disclosed and undisclosed. As indicated above, such interests shall be charged till the Commission acts in terms of Section 245D. Thereafter, the prescription relating to charging of interests etc. becomes operative, after the Commission allows the application for settlement to be proceeded with. In such event, there is no further charge of interest in terms of Sections 234A, B and C. The interest charged in terms of Section 245D is a separate levy and not in terms of interest chargeable under Sections 234A, B and C. Therefore, the apprehension that there is scope for charging of interest on interest is without any basis.

To sum up, the inevitable conclusion is that interest has to be charged for the period beginning from the first day of April next following the relevant financial year up to the date of Commission's order at the rate applicable, on interest chargeable under Section 234B, when an order under Section 245(D)(4) is passed, followed by quantification under Section 245(D)(6)

The appeals are allowed to the extent indicated above.