

## Supreme Court rules that credit for MAT paid should be allowed before computing interest under section 234B and 234C of the Act

In an important ruling, the Supreme Court has ruled that credit for Minimum Alternate Tax ("MAT") under section 115JA of the Income Tax Act, 1961 ("the Act") should be allowed before computing the interest payable under section 234B and 234C of the Act.

### Issue involved in the case

Section 115JAA of the Act provides for a scheme allowing a credit of the taxes paid in an earlier year based on book profits [Minimum Alternate Tax ("MAT")] against the taxes payable in a subsequent year, where such taxes are computed in accordance with the regular provisions of the Act. The issue before the Court was whether the MAT credit could be taken into account while computing the advance tax liability and if so, whether similar adjustment could be allowed while computing any interest under sections 234B and 234C of the Act for shortfall in discharging the advance tax liability.

### Ruling of the SC

- Section 115JAA of the Act does not postpone the right to claim a MAT credit to the point of determination of total income by the Tax Officer. The right to claim the credit is crystallized when the taxes are to be paid by the taxpayer. The right to claim set off is different from its quantification.
- The right to set off the tax credit follows as a consequence once the conditions of section 115JAA of the Act are satisfied.
- The quantum of tax credit to be allowed alone is dependent upon the determination by the Tax Officer and not the entitlement to such credit. Accordingly, the taxpayer is entitled to take into account the set off while estimating its liability to pay advance tax.
- If this interpretation is not accepted, there would be absurdity since a situation of the advance tax paid might be claimed as refund as a consequence of set off.
- Section 143(1) of the Act dealing with summary assessment mandates the Tax Officer to estimate the tax payable after adjusting the credit of taxes paid earlier as tax deducted at source and advance tax and such an exercise cannot exclude

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## Contributors

- ◆ [Sriram Seshadri](#)
- ◆ [V Srikrupa](#)

the MAT credit accrued to the taxpayer.

- The definition of “assessed tax” under section 234B of the Act excluded the MAT credit for the years in appeal. To remove the hardship caused due to this exclusion, the Finance Act, 2006 amended Explanation 1 to section 234B of the Act with effect from April 1, 2007 to allow the MAT credit while calculating advance-tax liability.
- The Court on a view of the above provision observed that the tax paid in advance could be taken into account for computing the tax payable subject to the warning that the MAT credit claimed if not lawfully available would amount to exposure for interest under section 234B of the Act.
- If brought forward MAT credit balance is not reckoned, it would lead to a situation where the Revenue would not pay any interest for such balance and the taxpayer should pay interest for any shortfall on account of taxes payable.
- It is immaterial that the Return Form provided for set off of MAT credit after computation of interest under section 234B of the Act because it is directly contrary to a plain reading of the provisions of the Act.

#### BMR comments

This is a welcome decision where the principles of set off of MAT credit have been clarified. This decision balances the absurd consequences of upholding the contention of the Revenue. Impliedly, the Supreme Court has held that the amendment in section 234B of the Act is clarificatory in nature and has allowed a retrospective operation to the years in appeal before the Supreme Court. This is in line with the earlier rulings of the Supreme Court in the case of Vinay Cements and Allied Motors in the context of amendment in section 43B of the Act, where a hardship to the taxpayer was removed.

#### Contacts

- ◆ Bobby Parikh, Mumbai  
+91 22 3021 7010  
[bobby.parikh@bmradvisors.com](mailto:bobby.parikh@bmradvisors.com)
- ◆ Mukesh Butani, New Delhi  
+91 124 339 5010  
[mukesh.butani@bmradvisors.com](mailto:mukesh.butani@bmradvisors.com)
- ◆ Rajeev Dimri, New Delhi  
+91 124 339 5050  
[rajeev.dimri@bmradvisors.com](mailto:rajeev.dimri@bmradvisors.com)
- ◆ Abhishek Goenka, Bangalore  
+91 80 4032 0100  
[abhishek.goenka@bmradvisors.com](mailto:abhishek.goenka@bmradvisors.com)
- ◆ Sriram Seshadri, Chennai  
+91 44 4298 7000  
[sriram.seshadri@bmradvisors.com](mailto:sriram.seshadri@bmradvisors.com)
- ◆ Gagan Malik, Singapore  
+65 6408 8004  
[gagan.malik@bmradvisors.com](mailto:gagan.malik@bmradvisors.com)

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a new address in the  
National Capital Region.

BMR Advisors | 22nd Floor | Building No. 5 | Tower A | DLF Cyber City | DLF Phase III | Gurgaon 122 002  
Tel: +91 124 339 5000 | Fax: +91 124 339 5001

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