

2022 LiveLaw (SC) 944

**IN THE SUPREME COURT OF INDIA
M.R. SHAH; J., M.M. SUNDRESH; J.**

Special Leave to Appeal (C) No(s). 21488/2017; 02-11-2022

M/S. PIONEER OVERSEAS CORPORATION USA (INDIA BRANCH)

versus

COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION) 2

Income Tax Act, 1961 ; Section 220(2A) - Merely raising the dispute before any authority cannot be a ground not to levy the interest and/or waiver of interest under Section 220(2A) - Otherwise each and every assessee may raise a dispute and thereafter may contend that as the assessee was bona fide litigating and therefore no interest shall be leviable - Under Section 220(2) of the Act, the levy of simple interest on non-payment of the tax @ 1% p.a. is, as such, mandatory.

(Arising out of impugned final judgment and order dated 17-05-2017 in WPC No. 5423/2016 passed by the High Court of Delhi at New Delhi)

For Petitioner(s) Mr. Ajay Vohra, Sr. Adv. Ms. Kavita Jha, AOR Mr. Udit Naresh, Adv. Mr. Anant Mann, Adv.

For Respondent(s) Mr. N. Venkataraman, ASG Chinmayee Chandra, Adv. Ms. Suhashini Sen, Adv. Mr. Siddhanth Kohli, Adv. Mr. V. Chandrashekhara Bharathi, Adv. Mr. Raj Bahadur Yadav, AOR

ORDER

We have heard Mr. Ajay Vohra, learned Senior Advocate, assisted by Ms. Kavita Jha, learned Advocate, appearing for the petitioner and Mr. N. Venkataraman, learned ASG, appearing for the Revenue.

The issue involved in the present Special Leave Petition is with respect to the waiver of interest under Section 220(2A) of the Income Tax Act, 1961 (for short "the Act"). The appropriate competent Authority rejected the application of the petitioner for waiver of interest while exercising the powers under Section 220(2A) of the Act. The same has been confirmed by the High Court.

It is the case on behalf of the petitioner that as the dispute was pending for Mutual Agreement Procedure [MAP] resolution which subsequently came to be culminated in the year 2012 and the liability to pay the tax thereafter arose and therefore the petitioner shall be entitled to the waiver of interest under Section 220(2)(A)(ii) of the Act. The aforesaid has no substance. Merely raising the dispute before any authority cannot be a ground not to levy the interest and/or waiver of interest under Section 220(2A) of the Act. Otherwise each and every assessee may raise a dispute and thereafter may contend that as the assessee was *bona fide* litigating and therefore no interest shall be leviable. It is required to be noted that under Section 220(2) of the Act, the levy of simple interest on non-payment of the tax @ 1% p.a. is, as such, mandatory.

We are in complete agreement with the view taken by the High Court.

The Special Leave Petition stands dismissed.