2025 INSC 846

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 1551 - 1553 OF 2023

JAYKISHOR CHATURVEDI & ETC. … APPELLANT(S)

VERSUS

SECURITIES AND EXCHANGE BOARD OF INDIA … RESPONDENT

J U D G M E N T

R. MAHADEVAN, J.

1. All these appeals are filed under Section 15Z of the Securities and Exchange Board of India Act, 1992[1] challenging the common judgment and order dated 29.09.2022[2] passed by the Securities Appellate Tribunal, Mumbai[3], in Appeal Nos.626 to 628 of 2022 preferred by the appellants. By the impugned order, the Tribunal dismissed the challenge to the notices of attachment dated 23.06.2022 issued against the appellants.

[1] Hereinafter referred to as "SEBI Act"
[2] For short, "the impugned order"
[3] For short, "the Tribunal"

FACTUAL MATRIX

2. According to the appellants, they are the promoter-directors of M/s. Brijlaxmi Leasing and Finance Limited, a company incorporated under the Companies Act and limited by shares, which is listed on the Bombay Stock Exchange and engaged in providing various financial services, including lending, loan syndication, advisory, and portfolio management, among others.

2.1. The company in the year 1995-96 went in to initial public offer for fully paid-up share capital of 56,48,500 shares of face value of Rs.10/- each. The fully paid up 5,64,85,000 shares of the company were split from Rs.10/- to Re.1 each from 30.06.2005.

2.2. While so, the respondent conducted examination of scrip of the company and found that the promoters and directors of the company purchased shares of the company on various dates between October 2012 and July 2013 in violation of the provisions of Regulation Nos.13(4) and 13(4A) read with 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992[4].

[4] For short, "the PTI Regulations"

2.3. Upon issuance of show cause notices, the Adjudicating Officer passed adjudication orders on 28.08.2014 under section 15-I of the SEBI Act read with Rule 5 of the SEBI Rules, 1995, imposing penalty on the appellants.

2.4. Challenging the aforesaid orders, the appellants by names Jaykishor Chaturvedi, Siddharth Jaykishor Chaturvedi, and Ankur Jaykishor Chaturvedi preferred appeals bearing Nos.435, 436 and 434 of 2014, respectively, before the Tribunal under Section 15E of the SEBI Act. *Vide* order dated 04.08.2015, the Tribunal dismissed these appeals. Aggrieved by the same, the appellants preferred further appeals bearing Civil Appeal Nos.14729, 14730, and 14728 of 2015, respectively, before this Court.

2.5. By a common judgment dated 28.02.2019 in C.A.No(s).11311 of 2013 etc. cases, a 3-Judge Bench of this Court disposed of all these appeals upholding the quantum of penalty imposed on the appellants.

2.6. Thereafter, the respondent through its Recovery Officer, Western Regional Office, issued demand notices dated 13.05.2022 directing the appellants to pay the penalties imposed by the Adjudicating Officer *vide* orders dated 28.08.2014 along with interest @ 12% p.a. from 28.08.2014 to 13.05.2022. However, the appellants failed to comply with the demand for payment issued by the respondent.

2.7. Consequently, the respondent issued notices of attachment of bank accounts on 23.06.2022, to the Principal Officer / Chairman & Managing Director /CEO of all Banks in India, ordering the following attachment with immediate effect:

(a) All account/s by whatever name called including lockers of the Defaulter (appellants), either singly or jointly with any other person/s held with the Bank.

(b) All other amount/ proceeds due or may become due to the Defaulter (appellants) or any money held or may subsequently hold for or on account of the Defaulter (appellants).

2.8. The Respondent also issued notices of attachment of demat accounts on 23.06.2022 to National Securities Depository Ltd. and Central Depository Services (I) Ltd., ordering the following attachment with immediate effect:

(a) All Demat account/s by whatever name called of the Defaulter, either singly or jointly with any other person/s held with the Depositories.

(b) All funds/folios/schemes held by whatever name called of the defaulters (appellants), either singly or jointly with any other person/s held with the Depositories.

2.9. Aggrieved by the aforesaid actions taken by the respondent, the appellants preferred appeals bearing Nos.626, 627, and 628 of 2022 before the Tribunal on

the ground that the recovery proceedings and attachment notices issued are excessive in nature and grossly disproportionate to the penalties imposed by the Adjudicating Officer. By the impugned order, the Tribunal dismissed all these appeals. Hence, the appellants are before us with the present Civil Appeals.

CONTENTIONS OF THE PARTIES

3. The main contention of the learned counsel for the appellants is that the Recovery Officer of the respondent exceeded the powers vested under section 28A of the SEBI Act by imposing retrospective interest computed from the date of the original adjudication orders dated 28.08.2014 under section 15-I of the SEBI Act, despite the absence of any provision for the imposition of interest in the said order.

3.1. Elaborating further, the learned counsel submitted that the scheme of recovery proceedings under the SEBI Act is governed by Section 28A read with Sections 220 to 227, 228A, 229, 232, along with the Second and Third Schedules to the Income Tax Act, 1961, and the Income Tax (Certificate Proceedings) Rules, 1962. Section 220(2) in unambiguous terms, stipulates that interest would be imposable at the rate of 1% per month after the 30th day from the date of the demand notice as it stood prior to insertion of Explanation– 4 to Section 28A, which came into force on 21.02.2019. Explanation – 4 states that the interest referred to in Section 220 of the Income Tax Act, 1961 shall commence from the

date the amount becomes payable by the person. This implies that prior to the insertion of Explanation – 4 to Section 28A of the SEBI Act, interest was to be levied in accordance with Section 220 of the Income Tax Act, 1961 – that is, after 30 days from the issuance of the notice of demand, and not from the date the amount became payable by the person. Whereas, the notice of demand dated 13.05.2022 issued under section 28A of the SEBI Act by the respondent comprised the penalty amount imposed along with interest at 12% p.a. computed from the date of the adjudication orders.

3.2. It is further submitted that Section 220 of the Income Tax Act, 1961 provides for the recovery of any amount payable under a notice of demand. Section 156 of the Income Tax Act, 1961 defines a notice of demand as a demand, in the prescribed form for the payment of any tax, interest, penalty, fine or any other sum payable in consequence of any order passed. The phrase, "in consequence of any order passed" refers to the original adjudication orders dated 28.08.2014 which imposed only a penalty and did not award any interest. Therefore, the Recovery Officer of the respondent exceeded his jurisdiction by computing interest on the penalty amount at 12% per annum from the date of the adjudication orders, when such order did not direct the payment of any interest.

3.3. It is also submitted that the demand notices, in essence, amount to a rewriting of the original adjudication orders, which had already attained finality.

Hence, interest on the penalty would be leviable only at the rate of 1% per month from 13.05.2022, i.e., 30 days after the date of the demand notices issued by the respondent, and not from 28.08.2014, the date of the adjudication orders.

3.4. Placing reliance on the decisions of this Court in *Sedco Forex International Drill Inc. v. Commissioner of Income Tax*[5]*, Shyam Sundar & others v. Ram Kumar and another*[6]*,* and *Keshavlal Jethalal Shah v. Mohanlal Bhagwandas and another*[7], the learned counsel submitted that the insertion of Explanation - 4 to Section 28A of the SEBI Act, which came into effect from 21.02.2019, cannot be applied retrospectively, as it alters the legal position as it stood earlier by introducing provisions relating to the levy of interest. It is also submitted that the imposition of interest is a matter of substantive law, and therefore, cannot have retrospective application [See: *J.K. Synthetics Ltd v. CTO*[8] and *State of Punjab v. Bhajan Kaur*[9]]. Thus, according to the learned counsel, Explanation - 4 to Section 28A of the SEBI Act, would not apply to the case of the appellants, as the amendment was introduced long after the original adjudication orders, which had attained finality by a common judgment dated 28.02.2019 in C.A.No(s).11311 of 2013 etc. cases. Since the amendment cannot be applied retrospectively, in light of the decisions referred to above, interest for the purposes of Section 28A shall not commence

[5] (2005) 12 SCC 717
[6] (2001) 8 SCC 24
[7] (1968) 3 SCR 623
[8] (1994) 4 SCC 276
[9] (2008) 12 SCC 112

from the date of the adjudication orders. Instead, it shall be computed in accordance with the plain language of Section 220(2) of the Income Tax Act, 1961 i.e., after 30 days from the date of notice of demand.

3.5. The learned counsel further pointed out that in *Dushyant N. Dalal and another v. SEBI*[10], this Court after referring to various judgments, upheld the levy of interest in equity as a principle of law, in the absence of express statutory provisions for interest. In that case, the appeal related to an adjudication order of penalty dated 13.11.2009 i.e., prior to the insertion of Section 28A into the SEBI Act, which provision was introduced by the Securities Laws (Amendment) Act, 2014, with effect from 18.07.2013. Whereas, in the present case, the adjudication orders against the appellants are dated 28.08.2014 i.e., after the insertion of Section 28A into the SEBI Act. Section 28A as it then stood, was clear and unambiguous, providing for the levy of interest under section 220(2) of the Income Tax Act, 1961 at the stage of recovery, in the event of non-payment of penalties imposed under the adjudication orders within 30 days from the date of service of the demand notices by the Recovery Officer. Despite being cognizant of the power to provide for future interest, as was done in *Dushyant N. Dalal*, the Adjudicating Officer in the case of the present appellants, made no such provision for future interest and the adjudication orders therefore attained finality in their existing form.

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[10] (2017) 9 SCC 660

3.6. Referring to the judgments of this Court in *Shiv Kumar Sharma v. Santhosh Kumari*[11], and *Shamsu Suhara Beevi v. G.Alex and another*[12], the learned counsel submitted that it is trite law that the exercise of equity cannot override or violate express statutory provisions; and the equity jurisdiction may be invoked only where the law is silent or does not operate in the field.

3.7. With these submissions and case laws, the learned counsel prayed that these appeals be allowed by setting aside the levy of interest at 12% p.a. charged from 28.08.2014, as well as the recovery certificates issued by the respondent and the notices of attachment issued in pursuance thereof.

4. Per contra, the learned counsel for the respondent submitted that the issues involved herein are no longer *res integra*, having been conclusively adjudicated by this Court in *Dushyant N. Dalal* (supra), wherein, this Court affirmed the authority of SEBI to levy interest, including on penalty amounts, pursuant to Section 28A of the SEBI Act read with Section 220 of the Income Tax Act, 1961. In doing so, this Court expressly rejected the contrary views previously adopted by the Securities Appellate Tribunal, which had limited the recovery of interest to periods subsequent to the enactment of Section 28A in 2013. This Court further clarified that the provision for levying interest embodies both substantive and procedural elements of law, thereby enabling SEBI to recover interest from the date on which

[11] (2007) 8 SCC 600
[12] (2004) 8 SCC 569

the liability originally arose, in consonance with principles of equity and the Interest Act, 1978.

4.1. It was further submitted that in the present case, the cause of action arose on 28.08.2014, i.e., upon the imposition of penalties by the Adjudicating Officer of SEBI, on each of the appellants, accompanied by a direction to effect payment within 45 days from the date of receipt of the adjudication orders. Section 220(1) of the Income Tax Act, 1961 does not contemplate the issuance of any independent notice of demand, but refers to the notice of demand served under Section 156. It mandates that the amount specified in such notice shall be paid within 30 days, failing which interest at the rate of 12% per annum becomes payable under Section 220(2) on the amounts specified therein, calculated from the expiry of the period prescribed under Section 220(1). Since Section 156 of the Income Tax Act is not incorporated into Section 28A of the SEBI Act, the expression 'notice of demand' referred to in Section 220(1), for the purposes of recovery under the SEBI Act would be referrable to the demand raised by SEBI - *inter alia* through a penalty order passed under Chapter VIA of the SEBI Act. In the instant case, the direction issued by the Adjudicating Officer of SEBI in the adjudication orders dated 28.08.2014, requiring payment of penalties by the appellants within 45 days from the receipt of the said orders, would constitute the 'notice of demand' contemplated under section 156 of the Income Tax Act (with necessary

modification as envisaged by Section 28A (1) of the SEBI Act). Consequently, the appellants' failure to comply with the said direction would render them 'deemed defaulters' within the meaning of Section 220(4) of the Income Tax Act. Therefore, the levy of interest from 28.08.2014 until the date of payment is fully warranted and justified as per the applicable statutes and the settled legal position.

4.2. It was also submitted that Section 28A of the SEBI Act makes the provisions of Sections 220 to 227, 228A, 229, 232 and the Second and Third Schedules to the Income Tax Act, 1961 and the Income Tax (Certificate Proceedings) Rules, 1962 apply "with necessary modifications" as if the said provisions and Rules made thereunder were the provisions of the SEBI Act. In the present case, the order of the Adjudicating Officer of SEBI dated 28.08.2014 itself required that the penalty amount be paid within 45 days from the date of receipt of the order. The demand notices dated 13.05.2022 issued by the Recovery Officer of SEBI were necessitated solely due to the appellants' failure to pay the penalty demanded and were intended to inform them of the outstanding dues as on that date, along with the proposed recovery actions, such as, attachment and detention. The appellants had unsuccessfully challenged the imposition of the penalty before both the Tribunal and this Court. Therefore, they cannot now contend that the cause of action for payment of the penalty arose only on 13.05.2022, when notice was issued by the Recovery Officer of SEBI.

4.3. Ultimately, it was submitted that as on date, the appellants remain liable to pay the following sums by way of interest:

Name	Penalty amount (Rs.)	Recovered amount till date (Rs.)	Interest pending (Rs.)
Siddharth J.Chaturvedi	5,00,000/-	5,00,465.85	5,34,640.77
Jaykishore Chaturvedi	11,00,000/-	11,00,000/-	11,79,533.33
Ankur J. Chaturvedi	7,00,000/-	7,00,000/-	7,41,133,33

4.4. Thus, according to the learned counsel, there is no merit in the present appeals and the same are liable to be dismissed.

DISCUSSION AND FINDINGS

5. We have heard the learned counsel appearing on either side and perused the materials available on record.

6. Concededly, the Adjudicating Officer passed the adjudication orders dated 28.08.2014, imposing penalties of Rs.11,00,000/- in the case of Jaykishor Chaturvedi, Rs.5,00,000/- in the case of Siddharth Jaykishor Chaturvedi and Rs.7,00,000/- in the case of Ankur Jaykishor Chaturvedi, for the alleged violation of Regulation Nos.13(4) and 13(4A) read with 13(5) of the PIT Regulations. The

said adjudication orders were affirmed by the 3-Judge Bench of this Court *vide* judgment dated 28.02.2019 in C.A. No (s).11311 of 2013 etc. cases and hence, the same had attained finality.

7. Seemingly, the appellants failed to pay the penalties imposed by the Adjudicating Officer, even after the same was affirmed by this Court. Consequently, the respondent issued demand notices dated 13.05.2022, directing the appellants to pay the penalties along with interest @ 12% per annum from 28.08.2014 to 13.05.2022 within 15 days from the date of receipt of the notices, failing which, recovery proceedings would be initiated against them. Even then, the appellants failed to make the payments. As a result, the respondent issued notices of attachment of the bank accounts and demat accounts against the appellants. Challenging the same, the appellants preferred appeals, which were dismissed by the Tribunal, by the impugned order dated 29.09.2022, observing that the penalty amount had not been paid even though the adjudication orders were passed eight years ago. It further held that if the amount is not paid within 45 days, interest becomes payable under Section 28A of the SEBI Act. Aggrieved by the dismissal of the appeals, the appellants have preferred these appeals before us.

8. Now, the questions to be determined in these appeals are, whether interest on penalties imposed by the Adjudicating Officer is payable by the appellants, and if so, from which date – whether from the date of the adjudication orders passed by the Adjudicating Officer or the demand notices issued by the respondent?

9. Before proceeding further, it is necessary to examine the legal position related to the issue involved herein.

9.1. Chapter VI A, comprising of Sections 15A–15HB prescribe penalties for various defaults under the SEBI Act *viz*., failure to furnish information, return, *etc*. Section 15A provides that a person who fails to file a return or furnish information, *shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which, such failure continues, subject to a maximum of one crore rupees*. Likewise, Sections 15B–15HB impose monetary penalties for other contraventions. However, none of these sections themselves mention that interest is payable on the penalty; and they only set out the penalty amounts. Even Section 15JA merely directs that penalties recovered are credited to the Consolidated Fund.

9.2. Section 15I authorizes SEBI to appoint adjudicating officers to impose penalties under Sections 15A–15HB. But, it does not by itself mention any interest liability on delayed payment.

9.3. Section 15J directs that in determining the penalty amount under Sections 15A–15HB, the adjudicating officer shall have due regard to certain factors *viz*., disproportionate gain, loss to investors, repetitive nature of default, *etc*. It also contains no provision for interest on delayed payments.

9.4. Although outside Chapter VI-A, Section 28A which was inserted by the Securities Laws (Amendment) Act, 2014 in Chapter VII, dealing with Miscellaneous matter, with effect from 18.07.2013, deals with the recovery when any person fails to pay amounts due under the Act. It states that if a person fails to pay a penalty imposed under the SEBI Act, the SEBI Recovery Officer may prepare a certificate specifying the amount due and recover it by attachment or other measures. Crucially, it provides that for the purposes of recovery, the provisions of Sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 – shall apply, with necessary modifications, as if those provisions and the rules were the provisions of the SEBI Act and referred to amounts due under this Act, instead of income-tax. In particular, Income-tax Act, Section 220 (which is thereby incorporated) imposes interest at 1% per month (or part thereof) on any tax (here, SEBI dues) remaining unpaid after the due date. Thus, Section 28A effectively makes all sums due to SEBI (including penalties) recoverable as arrears and subjects them to statutory interest under the Income-tax

Act. For ease of reference and specificity, the provisions of Section 28A of the SEBI Act and Section 220 of the Income Tax Act, 1961 are reproduced below:

> "***28-A. Recovery of amounts.*** *- (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11-B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-*
> *(a) attachment and sale of the person's movable property;*
> *(b) attachment of the person's bank accounts;*
> *(c) attachment and sale of the person's immovable property;*
> *(d) arrest of the person and his detention in prison;*
> *(e)appointing a receiver for the management of the person's movable and immovable properties,*
> *and for this purpose, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, insofar as may be, apply with necessary modifications as if the said provisions and the rules made thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.*
>
> *Explanation 1.- For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.*

Explanation 2.- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3. - Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961 shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 15T of this Act.

[13][Explanation 4.
The interest referred to in section 220 of the Income-tax Act, 1961 shall commence from the date the amount became payable by the person.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]"

"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][14] of the service of the notice at the place and to the person mentioned in the notice:
Provided that, where the [Assessing Officer][15] 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][16], 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.
[(1A) Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount

[13] The Explanation Inserted by Act 21 of 2019, s. 42 and the Second Schedule (w.e.f. 21.2.2019)
[14] Substituted by Act 4 of 1988, Section 85, for " thirty-five days" (w.e.f. 1.4.1989)
[15] Substituted by Act 4 of 1988, Section 2, for " Income-tax Officer" (w.e.f. 1.4.1988)
[16] Substituted by Act 21 of 1998, Section 3, for " Deputy Commissioner" (w.e.f. 1.10.1998)

specified in the said notice of demand, then, such demand shall be deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings, as the case may be, and any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 (11 of 1964).]

(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.]*[17]*[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)]*[18] *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]*[19] *[or an order of the Settlement Commission under sub-section (4) of section 245-D]*[20]*[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:]*[21]
[Provided further that where as a result of an order under sections specified in the first proviso, the amount on which interest was payable under this section had been reduced and subsequently as a result of an order under said sections or section 263, the amount on which interest was payable under this section is increased, the assessee shall be liable to pay interest under sub-section (2) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (1) and ending with the day on which the amount is paid:]

[Provided further that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent for every month or part of a month.][22]
....”

[17] Substituted by Act 4 of 1988, Section 85, for " fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-Section (1)" (w.e.f. 1.4.1989)
[18] Substituted by Act 4 of 1988, Section 85, for "fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-Section (1)" (w.e.f. 1.4.1989)
[19] Inserted by Act 13 of 1963, Section 14 (w.e.f. 1.4.1962)
[20] Inserted by Act 4 of 1988, Section 85 (w.e.f. 1.4.1989)
[21] Inserted by Act 13 of 1963, Section 14 (w.e.f. 1.4.1962)
[22] Inserted by Act 4 of 1988, Section 85 (w.e.f. 1.4.1989)

In conclusion, once Section 28A of the SEBI Act came into force with effect from 18.07.2013, the legal position stands settled that any penalty imposed by the Adjudicating Officer under the SEBI Act and remaining unpaid beyond the stipulated period is recoverable in the same manner as arrears of income tax under the Income Tax Act, 1961. As a necessary corollary, interest on such unpaid penalty also becomes statutorily leviable under section 220(2) of the Income Tax Act, which prescribes simple interest at the rate of 1% per month (12% per annum) for any amount specified in a demand notice that is not paid within the prescribed time.

9.5. To elucidate further, we will also look into the provision of Section 156 of the Income Tax Act, 1961, which reads as under:

> ***"156.*** *Notice of demand- When any tax, interest, penalty, fine or any other sum [Certain words omitted by Act 13 of 1966, Section 32 and Schedule III (w.e.f. 1.4.1967).] is payable in consequence of any order passed under this Act, the [Assessing Officer][23] 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.][24]*

9.6. It is clear from the above provision that when any tax, interest, penalty, fine or any other sum (other than advance tax) is payable under the Income Tax Act, the Assessing Officer is required to serve a notice of demand upon the assessee.

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[23] Substituted by Act 4 of 1988, Section 2, for" Income-tax Officer" (w.e.f. 1.4.1988)
[24] Inserted by Act 18 of 2008, Section 40 (w.e.f. 1.4.2008)

This notice mandates payment of the specified amount within 30 days from the date of its service. A reading of the provisions makes it clear that for the purpose of recovery of amounts due under the SEBI Act, certain provisions of the Income Tax Act have been incorporated into the SEBI Act. At this juncture, it will be relevant to point out the difference between "legislation by incorporation" and "legislation by reference". In the case of "legislation by incorporation", the provisions of the original Act, once specified, become an integral and independent part of the subsequent Act. The provisions of the original Act are deemed to be incorporated in the subsequent Act as if they were enacted within it. On the other hand, in the case of "legislation by reference", the provisions are generally referred to for applicability, and the effect of such reference is that not only the provisions existing at the time the subsequent Act was enacted are applied, but also any subsequent amendments made to the provisions referred to in the original enactment. Therefore, in the case of "legislation by incorporation", only the provisions as they existed on the date of incorporation into the subsequent law are applicable. In contrast, in the case of "legislation by reference", the law as it exists on the date of application, including any subsequent modifications or amendment, is applicable. Thus, in the case of "legislation by incorporation", modifications to the provisions in the original Act are not carried into the subsequent Act.

9.7. It will be useful to refer to the following judgments of this court on this aspect:

(i) The Collector of Customs, Madras v. Nathella Sampathu Chetty and Ors.[25]

> *".....To consider that the decision of the Privy Council has any relevance to the construction of the legal effect of the terms of section 23A of the Foreign Exchange Regulation Act is to ignore the distinction between a mere reference to or a citation of one statute in another and an incorporation which in effect means the bodily lifting of the provisions of one enactment and making it part of another so much so that the repeal of the former leaves the latter wholly untouched. In the case, however, of a reference or a citation of one enactment by another without incorporation, the effect of a repeal of the one "referred to" is that set out in section 8(1) of the General Clauses Act:*
> *"8(1) Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears : be construed as references to the provision so re-enacted. "*
> *52. On the other hand, the effect of incorporation is as stated by Brett, L. J., in Clarke v. Bradlaugh (1881) 8 Q.B.D. 63:*
> *"Where a statute is incorporated, by reference, into a second statute the repeal of the first statute by a third does not affect the second".*
> *53. This is analogous to, though not identical with the principle embodied in section 6A of the General Clauses Act enacted to define the effect of repeals effected by repealing and amending Acts which runs in these terms:*
> *"6A. Where any Central Act or Regulation made after the commencement of this Act repeals any enactment by which the text of any Central Act or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal."*
> *54. We say 'not identical' because in the class of cases contemplated by section 6A of the General Clauses Act, the function of the incorporating legislation is almost wholly to effect the incorporation and when that is accomplished, they die as it were a natural death which is formally effected by their repeal. In cases, however, dealt with by Brett, L. J., the legislation from which provisions are absorbed continue to*

[25] MANU/SC/0089/1961 : AIR 1962 SC 316

retain their efficacy and usefulness and their independent operation even after the incorporation is effected."

(ii) Ujagar Prints and Ors. v. Union of India (UOI) and Ors.[26]

"49. Referential legislation is of two types. One is where an earlier Act or some of its provisions are incorporated by reference into a later Act. In this event, the provisions of the earlier Act or those so incorporated as they stand in the earlier Act at the time of incorporation, will be read into the later Act. Subsequent changes in the earlier Act or the incorporated provisions will have to be ignored because, for all practical purposes, the existing provisions of the earlier Act have been re-enacted by such reference into the later one, rendering irrelevant what happens to the earlier statute thereafter.

Examples of this can be seen in Secretary of State v. Hindustan Co-operative Insurance Society MANU/PR/0038/1931 : AIR 1931 PC 149, Bolani Ores Ltd. v. State MANU/SC/0313/1974 : AIR 1975 SC 17, Mahindra and Mahindra Ltd v. Union of India MANU/SC/0391/1979 : AIR 1979 SC 798. On the other hand, the later statute may not incorporate the earlier provisions. It may only make a reference of a broad nature as to the law on a subject generally, as in Bhajiya v.Gopikabai MANU/SC/0403/1978 : (1978) 3 SCR 561 : AIR 1978 SC 793, or contain a general reference to the terms of an earlier statute which are to be made applicable. In this case any modification, repeal or re-enactment of the earlier statute will also be carried into in the later, for here, the idea is that certain provisions of an earlier statute which become applicable in certain circumstances are to be made use of for the purpose of the latter Act also. Examples of this type of legislation are to be seen in Collector of Customs v. Nathella Sampathu Chetty MANU/SC/0089/1961 : (1962) 3 SCR 786 : AIR 1962 SC 316, New Central Jute Mills Co. Ltd. v. Assistant Collector MANU/SC/0339/1970 : (1971) 2 SCR 92 : AIR 1971 SC 454 and Special Land Acquisition Officer, City Improvement Trust Board Mysore v. P. Govindan MANU/SC/0384/1976 : (1977) 1 SCR 549 : AIR 1976 SC 2517...Ed. Whether a particular statute falls into the first or second category is always a question of construction. In the present case, in my view, the legislation falls into the second category. Section 3(3) of the 1957 Act does not incorporate into the 1957 Act any specific provisions of the 1944 Act. It only declares generally that the provisions of the 1944 Act shall apply "so far as may be", that is, to the extent necessary and practical, for the purposes of the 1957 Act as well.

[26] MANU/SC/0675/1988: AIR 1989 SC 516

50. That apart, it has been held even when a specific provision is incorporated and the case apparently falls in the first of the above categories, that the rule that repeals, modifications or amendments of the earlier Act will have to be ignored is not adhered to in certain situations. These have been set out in State of Madhya Pradesh v. Narasimhan MANU/SC/0226/1975 : (1976) 1 SCR 6 : AIR 1975 SC 1835. In that case, the Supreme Court was considering the question whether the amendment of Section 21 of the Penal Code by the Criminal Law Amendment Act, 1958, was also applicable for purposes of the Prevention of Corruption Act 1947, which by Section 2 incorporates, for the purposes of that Act, the definition of 'public servant' in Section 21 of the Penal Code. Answering the question in the affirmative, the Court outlined the following propositions:

Where a subsequent Act incorporates provisions of a previous Act, then the borrowed provisions become an integral and independent part of the subsequent Act and are totally unaffected by any repeal or amendment in the previous Act. This principle, however, will not apply in the following cases:

(a) Where the subsequent Act and the previous Act are supplemental to each other;

(b) where the two Acts are in pari materia;

(c) where the amendment in the previous Act, if not imported into the subsequent Act also, would render the subsequent Act wholly unworkable and ineffectual; and

(d) where the amendment of the previous Act, either expressly or by necessary intendment, applies the said provisions to the subsequent Act."

(iii) Girnar Traders and Ors. v. State of Maharashtra and Ors.[27]

"86. *At the very outset, we may notice that in the preceding paragraphs of the judgment, we have specifically held that the MRTP Act is a self-contained code. Once such finding is recorded, application of either of the doctrines i.e. "legislation by reference" or "legislation by incorporation", would lose their significance particularly when the two Acts can coexist and operate without conflict.*

87. *However, since this aspect was argued by the learned Counsel appearing for the parties at great length, we will proceed to discuss the merit or otherwise of this contention without prejudice to the above findings and as an alternative plea. These principles have been applied by the courts for a considerable period now.* ***When there is general reference in the Act in question to some earlier Act but there is no specific mention of the provisions of the former Act, then it is clearly considered as legislation by reference. In the case of legislation by reference, the amending laws of the former Act would normally become***

[27] MANU/SC/0029/2011: 2011 3 SCC 1

applicable to the later Act; but, when the provisions of an Act are specifically referred and incorporated in the later statute, then those provisions alone are applicable and the amending provisions of the former Act would not become part of the later Act. This principle is generally called legislation by incorporation. *General reference, ordinarily, will imply exclusion of specific reference and this is precisely the fine line of distinction between these two doctrines. Both are referential legislations, one merely by way of reference and the other by incorporation. It, normally, will depend on the language used in the later law and other relevant considerations. While the principle of legislation by incorporation has well-defined exceptions, the law enunciated as of now provides for no exceptions to the principle of legislation by reference. Furthermore, despite strict application of doctrine of incorporation, it may still not operate in certain legislations and such legislation may fall within one of the stated exceptions.*

xxx xxx xxx

121. *These are the few examples and principles stated by this Court dealing with both the doctrines of legislation by incorporation as well as by reference. Normally, when it is by reference or citation, the amendment to the earlier law is accepted to be applicable to the later law while in the case of incorporation, the subsequent amendments to the earlier law are irrelevant for application to the subsequent law unless it falls in the exceptions stated by this Court in M.V. Narasimhan case [State of M.P. v. M.V. Narasimhan, MANU/SC/0226/1975 : (1975) 2 SCC 377: 1975 SCC (Cri) 589]. It could well be said that even where there is legislation by reference, the Court needs to apply its mind as to what effect the subsequent amendments to the earlier law would have on the application of the later law. The objective of all these principles of interpretation and their application is to ensure that both the Acts operate in harmony and the object of the principal statute is not defeated by such incorporation. Courts have made attempts to clarify this distinction by reference to various established canons. But still there are certain grey areas which may require the court to consider other angles of interpretation.*

122. *In Maharashtra SRTC [MANU/SC/0187/2003 : 2003:INSC:137 : (2003) 4 SCC 200] the Court was considering the provisions of the MRTP Act as well as the provisions of the Land Acquisition Act. The Court finally took the view by adopting the principle stated in U.P. Avas Evam Vikas Parishad [MANU/SC/0055/1998 : 1998:INSC:31 : (1998) 2 SCC 467] and held that there is nothing in the MRTP Act which precludes the adoption of the construction that the provisions of the Land Acquisition Act as amended by Central Act 68 of 1984, relating to award of compensation would apply with full vigour to the acquisition of land under the*

> *MRTP Act, as otherwise it would be hit by invidious discrimination and palpable arbitrariness and consequently invite the wrath of Article 14 of the Constitution. While referring to the principle stated in Hindusthan Coop. Insurance Society Ltd. [MANU/PR/0038/1931 : (1930-31) 58 IA 259: AIR 1931 PC 149] and clarifying the distinction between the two doctrines, the Court declined to apply any specific doctrine and primarily based its view on the plea of discrimination but still observed: (Maharashtra SRTC case [MANU/SC/0187/2003 : 2003:INSC:137 : (2003) 4 SCC 200], SCC p. 208, para 11)*
>
> *11. ... The fact that no clear-cut guidelines or distinguishing features have been spelt out to ascertain whether it belongs to one or the other category makes the task of identification difficult. The semantics associated with interpretation play their role to a limited extent. Ultimately, it is a matter of probe into legislative intention and/or taking an insight into the working of the enactment if one or the other view is adopted. The doctrinaire approach to ascertain whether the legislation is by incorporation or reference is, on ultimate analysis, directed towards that end. The distinction often pales into insignificance with the exceptions enveloping the main rule.*
>
> ***123. In the case in hand, it is clear that both these Acts are self-contained codes within themselves. The State Legislature while enacting the MRTP Act has referred to the specific Sections of the Land Acquisition Act in the provisions of the State Act. None of the Sections require application of the provisions of the Land Acquisition Act generally or mutatis mutandis. On the contrary, there is a specific reference to certain Sections and/or content/language of the Section of the Land Acquisition Act in the provisions of the MRTP Act."***
>
> *[Emphasis supplied]*

9.8. There is yet another possibility, where, in the original Act, there can be an incorporation of another provision from the same or a different enactment. In such cases, the incorporated provision should also be deemed to have been incorporated into the subsequent Act. Furthermore, when there is a general reference in the original Act that forms part of the incorporation in the subsequent Act, the general reference also gets incorporated into the subsequent Act as a reference. Section 220 of the Income Tax Act deals with the period within which the demand made under

Section 156 is to be paid. Section 156, by itself, does not specify any period within which the payment is to be made. However, the proviso to Section 156 makes it clear that a separate demand is not necessary when an assessment is made under Section 143(1) of the Income Tax Act, and the intimation of assessment is to be treated as the notice of demand. At this juncture, it is necessary to point out that the period of 30 days mentioned in Section 220 can also be reduced for the reasons stated in the proviso, provided the prescribed procedure is followed. The reference in Section 220(1) to Section 156 is limited to the purpose of reckoning the period of 30 days from the date of issuance of the demand notice. Therefore, in the strict sense, the limited reference to Section 156 in Section 220(1) cannot be treated either as a "legislation by incorporation" or a "legislation by reference".

9.9. The SEBI Act, 1992 was primarily enacted to protect the interests of investors in securities, to promote the development and regulation of the securities market, and to address matters incidental thereto. These include, but are not limited to, preventing fraudulent activities and malpractices in trading, guiding investors through the mobilisation and allocation of resources, ensuring safety in investments by prohibiting insider trading, curtailing price rigging, promoting fair practices in the trading of securities and stocks, and regulating financial intermediaries through the creation of codes of conduct for take overs, as well as conducting inquiries and audits of the stock market. To achieve these objects, the

SEBI Board takes cognizance of offences committed by companies and their directors and initiates action by way of levying penalties, suspending trading privileges, or recommending imprisonment. A company, though a juristic person, capable of suing and being sued in its own name, can be inflicted with punishments of penalty or suspension from trading, but cannot be punished by imprisonment. However, the directors and other connected persons covered by the PTI Regulations, who were at the helm of affairs at the time of the violation, can be subjected to punishment. It is trite law that in cases where directors of a company are prosecuted, the company is also liable to be prosecuted, because, in certain cases, but for the violation by the company, the directors cannot be prosecuted. The Board, armed with powers under Sections 29 and 30 of the SEBI Act, has also framed various rules and regulations to achieve the Act's objectives. Any violation of the SEBI Act, its rules or its regulations – and violations of certain provisions under the Companies Act by a listed company – can trigger adjudication by SEBI. Thus, it can be seen that adjudication under SEBI Act is triggered only by a violation. In contract, under the Income Tax Act, the levy and collection are enabled by charging provisions. Section 156 of the Income Tax Act, which deals with the issuance of a demand notice before recovery, has not been incorporated into the SEBI Act. Under the SEBI Act, the levy of penalties under various circumstances is governed by Chapter VIA, which deals with penalties and

adjudication. The adjudication is carried out in accordance with the procedure laid down in the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995. Section 28A of the SEBI Act, introduced with effect from 18.07.2013, provides the mechanism for recovery of penalties and, in cases of default, contemplates the payment of interest by incorporating certain provisions of the Income Tax Act. In effect, Section 28A is a substantive law insofar as the levy of interest. The adjudication is conducted as per the mechanism outlined under SEBI Act and the rules framed thereunder. Notably, the provisions of the SEBI Act or its rules do not mandate the issuance of a separate demand notice before recovery. Adjudication amounts to a crystallization of liability, and the demand is a natural sequitur. Therefore, there is no corresponding requirement for issuance a separate notice of demand seeking payment of the amount determined under the adjudication order. The adjudication authority is well within his powers to fix a period for payment of the amount specified in the adjudication order, and upon default, the liability to pay interest becomes inevitable.

10. In the present case, although the original adjudication orders dated 28.08.2014 did not expressly mention interest, the liability to pay interest arises as a matter of law by operation of section 28A read with section 220 of the Income Tax Act. The appellants admittedly failed to pay the penalty within the 45-day

period as directed in the adjudication orders, and the payment was eventually made after nearly nine years, only pursuant to the order of this Court dated 24.04.2023. It is a settled principle that statutory dues not paid within the prescribed time attract statutory interest, irrespective of whether such interest was specifically mentioned in the original order or not. All that is required is an enabling provision to demand interest. Once such a provision is available, the liability to pay interest becomes axiomatic upon the expiry of the period provided for payment of the penalty. As stated earlier, the enabling provision to recover interest was already in vogue when the adjudication order was passed. Accordingly, the appellants are liable to pay interest at 12% per annum on the unpaid penalty amounts for the period of delay. Therefore, the contentions of the appellants that interest cannot be levied retrospectively is misplaced, as is their reliance on the judgments of this court – since not only are the facts different, but also are the statutory provisions involved. In fact, in *J.K. Synthetics Ltd*, the issue was the interpretation of the provisions of the Rajasthan Sales Tax Act, 1954, specifically whether interest was to be calculated from the date of filing the return or from the date of assessment. The Constitutional Bench of this court held that the liability to pay interest would accrue only after the tax liability was crystallized upon assessment. In the present case, interest is demanded after adjudication – not from the date of the violation – and therefore, the principle laid down in *J.K. Synthetics* is not applicable.

11. Now, the next question is whether interest on the unpaid penalty should accrue from the expiry of the 45-day period stipulated in the Adjudicating Officer's orders dated 28.08.2014, or from the expiry of 30 days following the SEBI's notices dated 13.05.2022.

11.1. The appellants contend that interest, if payable, should accrue only from the date of the demand notices issued on 13.05.2022, rather than from the date of the adjudication orders. Conversely, the respondent argues that interest is due from the expiry of the 45-day period following the adjudicating orders dated 28.08.2014 as those orders constituted enforceable demands.

11.2. As seen above, section 220(1) of the Income Tax Act, 1961 does not independently envisage the issuance of a demand notice. Instead, it refers to the notice served under section 156, requiring payment within 30 days. Failure to comply attracts interest at 12% per annum under section 220(2), calculated from the expiry of the 30-day period. However, since section 156 is not incorporated into section 28A of the SEBI Act, the expression 'notice of demand' for recovery under the SEBI Act must be understood to include adjudication orders issued under Chapter VIA of the SEBI Act. We have already held that the adjudication officer was well within his rights to fix a period for payment. One of the purposes of

specifying such a period in the adjudication order is to determine the period from which payment of interest is to be calculated, if the assessee commits a default.

11.3. In the present case, the Adjudicating Officer's order itself constituted a clear and enforceable demand for payment of penalties within 45 days. This order attained finality following the appellants' unsuccessful challenges before the SAT and this Court, thereby crystallizing the liability. Once the adjudication order has attained finality, the obligation to pay the penalty stands revived from the date of adjudication. The pendency of any challenge after the period specified for payment only postpones or reduces the liability to pay interest; and the interim order granted if any, would also not absolve the appellants from the obligation to pay interest. [*See: Calcutta Jute Manufacturing Co. and another v. Commercial Tax Officer*[28]]. Under section 220(1) read with section 28A of the SEBI Act, interest becomes payable upon failure to meet the demand within the prescribed time. The appellants' failure to comply within the specified time rendered them 'defaulters' under Section 220(4) of the Income Tax Act, justifying the accrual of interest from the expiry of the 45-day compliance period. As already mentioned, since section 156 is not incorporated into the SEBI Act, the original order must be treated as the statutory trigger for the purpose of calculation of interest. Moreover, the demand notice dated 13.05.2022 merely reiterated the earlier demand and did not create a

[28] 1997 106 (STC) 433

fresh liability. To hold otherwise would undermine the effectiveness of the original compliance period and incentivize delay.

11.4. In *Dushyant Dalal (supra)*, this court affirmed that the Interest Act, 1978 empowers tribunals, including SAT, to award interest from the date the cause of action arose until the initiation of recovery proceedings based on equitable considerations. The following passage of the said decision is relevant:

> *"32. We agree with the aforesaid statement of the law. It is clear, therefore, that the Interest Act of 1978 would enable Tribunals such as SAT to award interest from the date on which the cause of action arose till the date of commencement of proceedings for recovery of such interest in equity. The present is a case where interest would be payable in equity for the reason that all penalties collected by SEBI would be credited to the Consolidated Fund under Section 15-JA of the SEBI Act. There is no greater equity than such money being used for public purposes. Deprivation of the use of such money would, therefore, sound in equity. This being the case, it is clear that, despite the fact that Section 28-A belongs to the realm of procedural law and would ordinarily be retrospective, when it seeks to levy interest, which belongs to the realm of substantive law, the Tribunal is correct in stating that such interest would be chargeable under Section 28-A read with Section 220(2) of the Income Tax Act only prospectively.[29] However, since it has not taken into account the Interest Act, 1978 at all, we set aside the Tribunal's findings that no interest could be charged from the date on which penalty became due. Civil Appeals Nos. 10410-12 of 2017 are allowed insofar as the penalty cases are concerned."*

The liability of interest is fortified after the enactment of section 28A, which is a substantive law. Furthermore, Explanation 4 to section 28A inserted on

[29] The same 2014 Amendment which introduced Section 28-A, with effect from 18-7-2013, also introduced Section 15-JB retrospectively, with effect from 20-4-2007. This is a positive indication that Section 28-A was intended only to have prospective application. It must be clarified, however, that interest is chargeable only with effect from 25-8-2014, as Section 220 was not referred to, while enacting Section 28-A, in any of the three Ordinances preceding the Amendment Act of 2014.

21.02.2019, explicitly states that interest under section 220 shall accrue from the date the amount became payable. We have already held that the liability to pay penalty stood triggered from the date of adjudication and that no separate notice of demand is necessary. Further, in the present case, as the adjudication order itself specified the time for payment of the penalty, the liability to pay interest would commence upon the expiry of the period mentioned in the assessment notice. An "explanation" in any law serves to clarify, restrict, or expand the scope of the main provision. The nature and effect of an Explanation must be understood in the context of the object of the Act, and in particular, the provision to which the Explanation is inserted. The Explanation introduced in 2019, in our view, did not bring about any substantive change but merely clarified the existing legal position. We also foresee another situation: where the original adjudication order under the SEBI Act does not specify any time for payment, the period of 30 days under Section 220 of the Income Tax Act should be deemed to apply for making the payment, failure of which would trigger the liability to pay interest. Thus, the adjudication officer's order which specified payment within 45 days, effectively operates as a notice of demand, rendering any separate demand notice redundant.

11.5. At this juncture, it is to be pointed out that interest on unpaid penalties is compensatory in nature, not penal. Its primary purpose is not to punish the defaulter, but to make good the financial loss occurred to the Revenue on account

of delay in receiving the payment that was lawfully due. When a penalty is imposed, a specific period is granted for compliance. If the payment is not made within that stipulated period, the delay deprives the Revenue of the timely use of funds that rightfully belong to the public exchequer. Therefore, the accrual of interest upon default is automatic and flows from the nature of the liability – serving to compensate for the time value of money and the disruption caused by delayed payment, rather than to impose an additional punitive burden. In this regard, it will be useful to refer to the following decisions:

(i) *Bhai Jaspal Singh v. CCT*[30]:

> *"36. Interest is compensatory in character and is imposed on an assessee who has withheld payment of any tax as and when it is due and payable. The interest is levied on the actual amount of tax withheld and the extent of delay in paying the tax on the due date. Essentially, it is compensatory and different from penalty which is penal in character (see Pratibha Processors v. Union of India [(1996) 11 SCC 101: AIR 1997 SC 138]).*

(ii) *Commissioner of Income-Tax v. Dhanalakshmy Weaving Works*[31]**:**

> *"8...*
> *"Interest" is a consideration paid either for use of money or for forbearance in demanding it after it has fallen due. It is a compensation allowed by law or fixed by parties or permitted by custom or usage for use of money belonging to another or for the delay in paying the money after it has become payable. It can be said to be the cost of using credit or funds of another. The liability for payment of interest at the rate stipulated accrues automatically on a failure to pay the amount of tax by the due date. This is so because such a provision is not a claim for any tax, but is a procedural matter providing machinery for recovery of tax which is compensatory in*

[30] (2011) 1 SCC 39 : (2010) 35 VST 456
[31] (2000) 245 ITR 13 : 1999 SCC OnLine Ker 597 : (2000) 160 CTR 374

nature (see Karimtharuvi Tea Estate Ltd. v. State of Kerala, [1966] 60 ITR 262 (SC); CST v. Qureshi Crucible Centre, [1993] 89 STC 467 (SC) and Prahlad Rai v. STO, [1992] 84 STC 375 (SC)). Liability to pay interest arises by operation of law, being automatic. Looking at the nature of levy, it is clear that it is compensatory in character and not in the nature of penalty. It is seen that there are several provisions where the Legislature has made a distinction between interest payable and penalty imposable. The ultimate liability for tax being not there does not dilute the requirements for the non-compliance of which interest is levied under section 201(1A).

***9.** Judged in that background, the levy of interest is justified and the Tribunal was not justified in deleting it. The answer to the reframed question is in the negative, in favour of the Revenue and against the assessee. Reference application is accordingly answered."*

Thus, we hold that interest must accrue from the expiry of the 45-day compliance period following the adjudication orders dated 28.08.2014. The subsequent demand notices are nothing but reminders and are not the first demand notices before the accrual of liability for interest. Accepting the appellants' position would encourage defaulters to delay payment indefinitely under the guise of awaiting formal orders, thereby undermining the efficacy of the enforcement framework and resulting in a loss to the revenue.

11.6. In view thereof, the authorities relied upon by the appellants lack persuasive value, and we find no infirmity or illegality in the order passed by the Tribunal that would warrant our interference.

CONCLUSION

11.7. Accordingly, all these appeals stand dismissed. The appellants are directed to pay interest calculated by the respondent, within a period of 15 days from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous application(s), if any, shall stand closed.

…….J.
[J.B. Pardiwala]

…….J.
[R. Mahadevan]

NEW DELHI;
JULY 15, 2025.