

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH MUMBAI**

**BEFORE MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 1102/Mum/2026
(Assessment Year: 2020-21)**

Capgemini IT Solutions India Private Limited 5 th Floor, Part A, Block IV, Plot IT3-IT4, Airoli Knowledge Park, TTC Industrial Area, Navi Mumbai-400708	Vs.	ACIT Circle-15(1)(2) Aayakar Bhavan, Maharshi Karve Road, Churchgate, Mumbai -400 020
PAN/GIR No. AAICR8502M		
(Applicant)		(Respondent)

Assessee by	Shri Vyomesh Pathak, Ld. AR
Revenue by	Shri R. A. Dhyani & Shri V. S. Mahajan, Ld. DRs

Date of Hearing	28.04.2026
Date of Pronouncement	30.04.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal filed by the assessee is directed against the order dated 10.12.2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi[hereinafter referred to as "CIT(A)"], under section 250 of the Income-tax Act,

1961[hereinafter referred to as "the Act"], arising from the assessment order dated 07.07.2022 passed by the Assessing Officer under section 143(3) read with section 144B of the Act for the Assessment Year 2020–21.

2. The brief facts of the case, as emanating from the assessment order, are that the assessee is a resident company engaged in rendering Information Technology and Information Technology Enabled Services. The assessee filed its return of income electronically on 12.02.2021 declaring total income at Rs. 0/-.

3. The case was selected for limited scrutiny under CASS and notice under section 143(2) was issued on 29.06.2021, followed by notice under section 142(1) dated 22.11.2021. In response, the assessee furnished details through the e-proceeding portal. The case was selected for scrutiny on the issues of “Introduction/Addition of high value intangible asset during the year” and “High liabilities as compared to low income/receipts”.

4. The assessee, during the course of assessment proceedings, submitted that it had claimed deduction under section 10AA amounting to Rs. 18,65,282/- in respect of export of software services from its eligible SEZ units and had filed the return declaring total income at Rs. Nil after such deduction. The assessee also furnished requisite details, including documents and submissions through the e-proceeding portal, which were examined by the Assessing Officer.

5. The Assessing Officer, after verification of the details submitted by the assessee and considering the explanation furnished, recorded that “on verification of the details submitted by the assessee, the income as declared by the assessee in the return of income is accepted.” However, as per the computation sheet forming part of the assessment order, the total income was determined at Rs. 18,65,282/- under normal provisions, and the tax liability was computed under section 115JB at Rs. 23,42,062/-.

6. Aggrieved by the assessment order, the assessee preferred appeal before the CIT(A). Before the CIT(A), the assessee reiterated that the Assessing Officer had accepted the returned income but failed to grant deduction under section 10AA in the computation sheet, which resulted in determination of income under normal provisions at Rs. 18,65,280/- instead of Nil. It was further submitted that due to non-grant of deduction under section 10AA, there was a consequential short grant of MAT credit to the extent of Rs. 4,84,973/-. The assessee also contended that interest under section 234C was wrongly levied at Rs. 90,032/- as against Rs. 47,875/- declared in the return, and that the company had commenced operations only from October 2019 and hence was not liable to pay advance tax for the first two instalments.

7. The CIT(A), after considering the facts and submissions, the CIT(A) held that the Assessing Officer had inadvertently not granted the deduction in the computation sheet and accordingly

directed the Assessing Officer to verify the claim and grant deduction under section 10AA as claimed in the original return. The appeal on this ground was treated as allowed.

8. With regard to the levy of interest under section 234C, the CIT(A) observed that interest under section 234C is consequential in nature and held that the assessee would have anticipated its turnover even if it was inoperative for the first six months. The reliance placed by the assessee on the decision in ***Kumari Kumar Advani (ITA No. 7661/Mum/2013)*** was held to be distinguishable. The CIT(A) further observed that waiver of interest under section 234C is within the discretion of higher authorities and not within the powers of the CIT(A). Accordingly, the grounds relating to levy of interest under section 234C were dismissed.

9. As regards the issue of MAT credit, the CIT(A) held that due to non-grant of deduction under section 10AA, there was a consequential short grant of MAT credit and directed the Assessing Officer to verify and grant full MAT credit of Rs. 23,42,060/- as claimed by the assessee. This ground was allowed. Thus, the appeal of the assessee was partly allowed by the CIT(A).

10. Aggrieved by the order of the CIT(A), the assessee is in further appeal before us and has raised the following grounds of appeal:

1. *The learned AO / CIT(A) erred in determining the aggregate income tax liability of the Appellant for AY 2020-21 at Rs. 24,32,094/- instead of Rs. 23,89,937/- as declared in the Return of Income filed by the Appellant.*
2. *The learned AO / CIT(A) erred in levying interest u/s 234C of Rs. 90,032 for non-payment of advance taxes for the 1st and 2nd instalment (i.e. June 2019 and September 2019) without appreciating the fact that the Appellant has commenced business operations only from 1st October 2019 and consequently there was no requirement to pay advance tax for the first and second instalment and interest ought not to be levied as per the sub-clause (c) of the second proviso to section 234C.*

The Appellant craves leave to add to, amend, alter, modify or withdraw any or all the Grounds of Appeal before or at the time of hearing of the Appeal, as they may be advised from time to time.

11. During the course of hearing before us, the learned Authorised Representative (AR) of the assessee submitted that the assessee is carrying out its operations from a Special Economic Zone (SEZ) and had received approval from the Office of the Development Commissioner on 17.10.2019. It was contended that the assessee did not have any business operations prior to the said date and, therefore, no income had arisen or could have been reasonably anticipated before commencement of such operations.

12. The learned AR further invited our attention to the proviso to section 3 of the Income-tax Act, 1961 defining "Previous Year", which reads as under:

"Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on

which the source of income newly comes into existence and ending with the said financial year.”

13. Relying upon the aforesaid statutory provision, it was submitted that the business of the assessee was set up only in October 2019 and, therefore, the previous year, qua such business, commenced from that date. Consequently, it was contended that the assessee was not liable to estimate or pay advance tax instalments falling due prior to 17.10.2019, namely the instalments for June and September, as there was neither any business activity nor any source of income in existence during the said period.

14. The learned AR thus submitted that the levy of interest under section 234C, insofar as it relates to the first and second instalments, is not in accordance with law and the same ought to be recomputed having regard to the date of setting up of the business, and accordingly interest, if any, should be restricted only with reference to the period subsequent to commencement of operations.

15. Per contra, the learned Departmental Representative relied upon the orders of the Assessing Officer and the Commissioner of Income Tax (Appeals) and submitted that the levy of interest under section 234C is mandatory and consequential in nature.

16. We have heard the rival submissions and perused the material available on record. The limited controversy before us pertains to the levy of interest under section 234C of the Act in respect of the first and second instalments of advance tax.

17. Section 234C of the Act provides for levy of interest for deferment of advance tax where an assessee, who is liable to pay advance tax under section 208, fails to pay such tax or where the advance tax paid on the due dates is less than the prescribed percentage of the “tax due on the returned income”. The provision prescribes specific percentages of tax payable on or before 15th June, 15th September, 15th December and 15th March, and mandates levy of interest at the rate of one per cent per month on the shortfall. However, a careful reading of section 234C also shows that the levy is not absolute in all situations. The proviso to section 234C(1) specifically carves out exceptions where the shortfall in advance tax is on account of inability to estimate certain categories of income. In particular, clause (c) of the proviso provides that no interest shall be leviable where the shortfall is on account of under-estimate or failure to estimate income under the head “Profits and gains of business or profession” in cases where such income accrues or arises for the first time, provided the tax thereon is paid in the remaining instalments or by 31st March of the financial year.

18. At the same time, reference may be made to section 3 of the Act which defines “Previous Year”. The proviso to section 3 clearly stipulates that in the case of a business newly set up, the previous year shall commence from the date of setting up of such business and end with the financial year. Thus, the statutory scheme itself recognises that prior to the date of setting up of business, there is no previous year qua such business and

consequently no income under the head “Profits and gains of business or profession” can be said to have arisen.

19. In the present case, it is an undisputed position emerging from the record that the assessee commenced its operations from the Special Economic Zone only upon receipt of approval from the Office of the Development Commissioner on 17.10.2019. The Revenue has not brought any material on record to controvert the assertion that there were no business operations prior to the said date. Therefore, applying the proviso to section 3, the previous year, qua the business of the assessee, commenced only from 17.10.2019. Once this position is accepted, the necessary corollary is that no income under the head “Profits and gains of business or profession” had accrued or arisen prior to the said date. Consequently, there could not have been any occasion for the assessee to estimate such income or discharge advance tax liability for the instalments due on 15th June and 15th September. The condition precedent for applicability of section 234C, namely the existence of income capable of estimation, itself fails in the facts of the present case. Further, the case of the assessee squarely falls within the exception carved out in clause (c) of the proviso to section 234C(1), inasmuch as the income under the head “Profits and gains of business or profession” has arisen for the first time during the year upon commencement of operations in October 2019. Once the statute itself recognizes that no interest shall be leviable in such circumstances, the levy of interest for the earlier instalments cannot be sustained.

20. Before the learned CIT(A), the assessee had placed reliance on the decision of the co-ordinate bench in the case of *Kumari Kumar Advani vs ACIT (ITAT Mumbai)* to contend that interest under section 234C cannot be levied where the income could not have been anticipated on the due dates of advance tax instalments. The assessee had submitted that since the business itself commenced only in October 2019, there was no possibility of estimating income for the earlier instalments falling due in June and September. The learned CIT(A), however, distinguished the aforesaid decision by observing that in the cited case, the income had arisen on account of an unexpected gift received during the year and, therefore, could not have been foreseen, whereas in the present case the income was from an ongoing business and the assessee “would have anticipated its turnover for the year even if it was inoperative for the first six months”. The learned CIT(A) further held that interest under section 234C is consequential in nature and that waiver of such interest lies within the jurisdiction of higher authorities and not the CIT(A).

21. We have carefully considered the reasoning given by the learned CIT(A) in distinguishing the decision relied upon by the assessee. In our considered view, the distinction drawn by the learned CIT(A) is not sustainable in law. The underlying principle laid down in the judicial precedent relied upon by the assessee is that interest under section 234C cannot be levied on income which was not in existence or could not have been reasonably foreseen on the relevant due dates. The ratio is not confined

merely to cases of windfall income such as gifts, but extends to all situations where the income arises subsequently and could not have been anticipated earlier.

22. In the present case, the facts stand on a stronger footing than the case relied upon by the assessee. Here, it is not merely a case of unexpected income, but a case where the business itself had not come into existence prior to October 2019. In the absence of any business activity or source of income, the question of estimating income for the earlier instalments does not arise at all. Therefore, the principle laid down in the decision relied upon by the assessee squarely applies to the facts of the present case.

23. Further, the reasoning of the learned CIT(A) that the assessee “would have anticipated its turnover” even when the business had not commenced is contrary to the statutory framework. The Act does not contemplate estimation of income in anticipation of a business which has not yet been set up. Such an interpretation would render the proviso to section 3 and the exception carved out in section 234C(1) ineffective. In fact, the case of the assessee is directly covered by clause (c) of the proviso to section 234C(1), which provides that no interest shall be leviable where the shortfall is on account of failure to estimate income under the head “Profits and gains of business or profession” where such income arises for the first time. In the present case, the income from business has arisen only after

17.10.2019 and, therefore, the assessee could not have estimated such income for the earlier instalments.

24. In view of the foregoing discussion, we hold that the distinction drawn by the learned CIT(A) is misplaced and the reliance placed by the assessee on the judicial precedent is well founded. Accordingly, the levy of interest under section 234C in respect of the instalments falling due prior to 17.10.2019 is not sustainable in law.

25. The Assessing Officer is, therefore, directed to recompute the interest under section 234C, if any, by excluding the first and second instalments and restricting the levy, if at all, only to the period subsequent to the commencement of business, in accordance with law. Accordingly, the grounds raised by the assessee are allowed.

26. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 30.04.2026.

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 30/04/2026
Dhananjay, Sr.PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai