IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 6494 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 6497 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 6538 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 6542 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA

and

HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

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Approved for Reporting	Yes	No
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OIL AND NATURAL GAS CORPORATION LTD. (ONGC)
Versus
INCOME TAX OFFICER, TDS CIRCLE, TDS, VADODARA & ANR.

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Appearance:
MR.PRASHANT MEHARCHANDANI with MR.ARIJIT GHOSH for MR.HEET B JHAVERI(11950) for the Petitioner(s) No. 1
MR KARAN G. SANGHANI, for the Respondent(s) No. 2
MS. RICHA GUPTA for MS MAITHILI D MEHTA(3206) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 19/08/2026

COMMON ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. Since, the issue raised in the present group of petitions is common, the same are heard and decided analogously by the present common Judgment and Order. Special Civil Application No.6542 of 2026 is taken up as the lead matter.

2. In the captioned writ petitions, the petitioner is praying for interest on the refund of amount, which has been belatedly paid to the petitioner after a period of 1013 days.

3. Today, when the matters are taken up for hearing, learned advocate Mr.Prashant Meharchandani appearing for the petitioner has submitted that, during the pendency of these petitions, respondents have passed orders granting the interest on the refund amount in the respective writ petitions. However, the grievance of the petitioners would still survive, as the petitioners are entitled to interest from 01.08.2021 till 02.03.2024.

4. Learned advocate Mr.Meharchandani has invited the attention of this Court to Form-5 which has been issued on 24.05.2021. It is submitted that by the various orders passed by the respondents, during the pendency of the writ petition, the interest has been confined from 01.07.2022, i.e. the order passed by the respondent authority confirming the determination of the

amount under the Certificate issued in Form-5, whereas, the petitioner is entitled to the interest from the date of issuance of Form-5 and not from the passing of the consequential order dated 17.06.2022 giving effect to Form-5 issued under the Direct Tax Vivad Se Vishwas Act, 2020 (for short *'VsV Act, 2020'*). While inviting the attention of this Court to the provision of Section 5(2) of the VsV Act, 2020 read with Rule 7 of the Direct Tax Vivad Se Vishwas Rules, 2020 (for short *'VsV Rules, 2020'*) has submitted that neither the VsV Act, 2020 nor the VsV Rules, 2020 provides any passing of the orders by the Designated Authority, giving effect to the Form-5. He has also invited the attention of this Court to Clause-9 of the Central Action Plan 2021–2022 issued by the Central Board of Direct Taxes (for short 'the CBDT') which refers to VsV (Vivad se Vishwas) cases, which specifies that when Form-5 has been issued upto 30.06.2021, necessary orders giving effect to such Form-5 has to be passed within 30 days, i.e. till 01.07.2021. Thus, it is urged that respondents may be directed to grant interest from 01.08.2021 till the refund has been credited in the account of the petitioner on 02.03.2024.

5. In support of his submissions, he has placed reliance on the decision of the High Court of Bombay in the case of *UPS Freight Services India (P.) Ltd. vs. Deputy Commissioner of Income Tax*, *[2023] 156 taxmann.com 489 (Bombay)*.

6. It is submitted that the respondents, while passing the order under Section 154 of the Income Tax Act, 1961 (for short *'the IT Act, 1961'*) determining the interest on refund, have placed reliance on the decision of this Court in the case of *Sahil Total Infratech (P.) Ltd. vs. Assistant Commissioner of Income Tax*, *[2025] 172 taxmann.com 230 (Gujarat)*. It is submitted that, the petitioner cannot be denied interest from the date of issuance of Form 5 by placing reliance on the said judgement since in that case the assessee claimed the interest on the refund amount from the date of the order giving effect to Form-5, and also that the assessee did not validate the bank account with Central Processing Center (for short 'CPC'). However, in the present case, no such facts exist and the petitioner is entitled to the interest by counting the starting date as 01.08.2021 as per the decision of the Bombay High Court and subsequent decision of this Court in the case of Samarpan Foundation vs. Commissioner of Income Tax (Exemption), *[2025] 174 taxmann.com 1010 (Gujarat)*.

7. Opposing the present writ petition and the submissions advanced by learned advocate Mr.Meharchandani, learned advocate Ms.Richa Gupta appearing for learned Senior Standing Counsel Ms.Maithili D. Mehta, has placed reliance on the Circular No.03 of 2021 dated 04.03.2021 issued by the CBDT. It is submitted that the CBDT has clarified that in cases where the designated authority passes an order under sub-section (1) of

Section 5 of the VsV Act, 2020 and under sub-section (2) of Section 5 of VsV Act, 2020, the Assessing Officer shall pass consequential order under the Act. It is thus submitted that, pursuant to the aforesaid circular, the Designated Authority passed an order on 17.06.2022 and accordingly, by the subsequent orders, the Designated Authority has determined the amount of interest from 01.07.2022 to 07.02.2024 (i.e. the date on which the refund order has been issued).

8. At this stage, learned Senior Standing Counsel Mr.Karan Sanghani, while assisting learned advocate Ms.Gupta has submitted that Section 10 of VsV Act, 2020, empowers CBDT to issue directions or orders to the income tax authorities, and accordingly it has issued Circular dated 4th March 2021 directing the officers to pass consequential orders under the IT Act, 1961 after the determination order passed under Section 5(2) of the VsV Act, 2020. It is submitted that since Section 10 of VsV Act, 2020 refers to IT Act, 1961 gets attracted and as per the provision of Section 153 of the IT Act, 1961, the Designated Authority can pass an order within a period of three months from the end of the month, in which the order is passed by the Assessing Officer. It is further contended that the reliance placed by the petitioner on the Action Plan issued by the CBDT is not applicable, in view of the specific provision of Section 10 of VsV Act, 2020 read with Section 153 of the IT Act, 1961.

9. We have heard the learned advocates appearing for the respective parties at length.

10. The issue raised in the present writ petition, as mentioned hereinabove, boils down to the grant of interest on the refund amount.

11. The petitioner in the present writ petition has challenged the rectification order dated 26.12.2025 passed under Section 154 of the IT Act, 1961 denying interest on the refund. Pursuant to the order dated 05.05.2026 by this Court, the revenue has passed further order under Section 154 of the IT Act, 1961, on 01.07.2026, granting interest at the rate of 6% on the refund amount. The interest has been granted for a period of 20 months, i.e. from 01.07.2022 to 07.02.2024. The date 01.07.2022 is determined on the basis of order dated 17.06.2022 passed by the Designated Authority giving effect to Form-5 under Rule 5 of VsV Rules, 2020 issued on 24.05.2021 under the provision of sub-section (2) of Section 5 of the VsV Act, 2020, whereas, the order of 07.02.2024 is the actual refund order, and subsequently, pursuant to the said order, the refund has been credited in the account of the petitioner on 02.03.2024.

12. The petitioner has thereafter, filed an additional affidavit dated 05.08.2026 praying for interest for 1013 days. However, during the course of arguments, learned advocate Mr.Prashant

Meharchandani has restricted to 610 days or 20 months. The details of the respective writ petitions and the amount of refund are provided by him are as under:

Item No.	SCA No.	AY	TAN	Date of Issuance of Form 5	Refund Issued (in INR)	Refund Credited On	Delay in Issuance of Refund from 01.08.2021(As per Clause 9 of CBDT Central Action Plan) till actual credit of Refund on 02.03.2024 (as per Petitioner)	Interest Quantum (as per Petitioner)	Computation of Interest as per Respondent (vide Order dated 01.07.2026) – from start of month subsequent to alleged Order Giving Effect to Form 5 dt. 17.06.2022 was passed, till Refund Order Date [1 July 2022 till 07 February 2024]	Interest Quantum (as per Respondent vide order dt 01.07.2026)
5	6542 / 2026	2010-11	BRDO 00088E		57,97,818			8,99,694		5,79,782
2	6494 / 2026	2012-13		24 May 2021	1,66,37,742	02 March 2024	944 days or 31 Months and One Day	25,81,813	610 days or 20 months	16,63,774
4	6538 / 2026	2010-11	BRDO 00090G		46,74,060			7,25,312		4,67,406
3	6497 / 2026	2012-13			78,38,067			12,16,296		7,83,807
				Total	3,49,47,687			54,23,115		34,94,769

13. Thus, the petitioner is claiming the amount of interest on the refund from 01.08.2021 till the actual date of refund, which was credited on 02.03.2024, whereas, the respondents have granted interest from 01.07.2022 to 07.02.2024.

14. We have perused the orders passed by the respondent authority under Section 154 of the IT Act, 1961. A perusal of the aforesaid orders reveal that while granting interest on delayed refunds under VsV Act, 2020, the Designated Authority has relied upon the decision of the Supreme Court in the case of *Union of*

India vs Tata Chemicals Ltd., 2014 (6) SCC 335, and ultimately, while placing reliance on the decision in the case of ***Sahil Total Infratech (P.) Ltd. (supra)***, interest of 6% per annum is granted on the delayed refund issued under Vivad se Vishwas Scheme (for short 'VsV') from 01.07.2022 to 07.02.2024.

15. At the outset, we may clarify that the Designated Authority has not placed reliance on the provision of Section 153 of the IT Act, 1961 for determining the date.

16. We may also clarify that in the judgment rendered in the case of ***Sahil Total Infratech (P.) Ltd. (supra)***, the assessee/ petitioners therein had claimed the refund from the order giving effect to Form-5 and not from the date of issuance of Form-5 or as per the provision of Clause-9 under Chapter-VI of Central Action Plan 2021–2022 issued by the CBDT. Hence, the coordinate bench has granted the interest from the date of Form-5 as prayed for by the petitioner, which is not the case of the present petitioner.

17. Subsequently, after the decision of ***Sahil Total Infratech (P.) Ltd. (supra)***, the Coordinate Bench of this Court, while considering the said judgment in the case of ***Samarpan Foundation (supra)***, has granted interest on the delayed refund amount from the issuance of Form-5.

18. The Bombay High Court in the case of ***UPS Freight Services India (P.) Ltd. (supra)*** has granted interest on refund, in view of the provision of Clause-9 of the Central Action Plan, 2011-22 which mentions about the orders passed by the Jurisdictional Assessing Officer within a period of 30 days from the issuance of Form-5, i.e. from 01.07.2021. Thus, the Bombay High Court has fixed the liability of interest from 01.08.2021.

19. Thus, in both the judgments passed by this Court in the case of ***Sahil Total Infratech (P.) Ltd. (supra)*** and in the case of ***Samarpan Foundation (supra)***, the issue of granting the interest on delayed refund as per Clause-9 of the Central Action Plan, 2021-22 has not been discussed. In none of the decisions, the Revenue has contested the fixation of interest on refund from the date of passing of the consequential order as per the limitation prescribed under Section 153 of the IT Act.

20. The decisions of this Court as referred to hereinabove also do not refer to the Circular No.03 of 2021 dated 04.03.2021, which has been referred before us.

21. We shall, first refer to the provision of sub-section (1) and sub-section (2) of Section 5 of the VsV Act, 2020, the same read thus:

> *"5.(1) The designated authority shall, within a period of fifteen days from the date of receipt of the declaration, by order, determine the amount payable by the declarant in*

accordance with the provisions of this act and grant a certificate to the declarant containing particulars of the tax arrear and the amount payable after such determination, in such form as may be prescribed.

(2) The declarant shall pay the amount determined under sub-section (1) within fifteen days of the date of receipt of the certificate and intimate the details of such payment to the designated authority in the prescribed form and thereupon the designated authority shall pass an order stating that the declarant has paid the amount."

22. The provision of sub-section (2) of Section 5 of the VsV Act, 2020 refers the payment of the amount by the declarant determined under sub-section (1) within 15 days of the date of receipt of the Certificate and intimate the details of such payment to the Designated Authority in prescribed form, i.e. Form-4, and thereupon the Designated Authority is required to pass an order stating that the declarant has paid the amount, that would result in issuance of Form-5. Thus, as per the provision of sub-section (1) and as per the Rules of VsV Rules, 2020, the Form-2 is the amount which has to be determined and paid by the declarant within a period of 15 days, as per provision sub-section (2) in Form-4 and the Designated Authority has to issue a Certificate. The provision of sub-section (2) of Section 5 of the VsV Act, 2020 specifically refers to the period of 15 days, in which the petitioner has to pay the amount which has been determined in Form-2, whereas, no timeline/ time limit has been prescribed for the Designated Authority to pass an order after issuance of Form-5.

23. In the present case, it is not in dispute that Form-5 has been issued on 24.05.2021 under Rule 7 of the VsV Rules, 2020.

24. Rule-7 of the VsV Rules, 2020 reads thus:

> ***"7. order by designated authority.***
>
> *The order by the designated authority under sub-section (2) of section 5, in respect of payment of amount payable by the declarant as per certificate granted under sub-section (1) of section 5, shall be in Form 5."*

25. The relevant observations of the Certificate in Form-5 is as under:

> *"xxx Now, therefore, in exercise of the powers conferred by sub-section (2) of section 5 read with section 6 of the Act, it is hereby certified that-*
>
> *(a) a sum of Rs.0 has been paid by the declarant towards full and final settlement of tax arrear determined in the order No. 865507070221220 dated 22/12/2020 xxx."*

26. Thus, the Certificate under Form-5 mentions that a sum of Rs.0 had been paid by the declarant towards full and final settlement of tax arrears determined in the order dated 22.12.2020. Thus, the amount mentioned in Form-5, which was already been deposited by the petitioner before the Revenue, was required to be refunded as the amount determined was Nil under the VsV Act, 2020. The respondents were supposed to refund the amount immediately, after issuance of Form-5 on 24.05.2021, however, they did not do so and passed an order giving effect to Form-5 only on 17.06.2022, and ultimately refund order is passed

on 07.02.2024, and the amount has been finally credited on 02.03.2024 in the account of the petitioner,i.e after a delay of 1013 days.

27. Before us, the Revenue has placed reliance on the Circular No.03 of 2021 dated 04.03.2021 for denying interest from the date of issuance of Form-5. The relevant portion of the Circular No.03 of 2021 dated 04.03.2021 is extracted as under:

> *"3. Representations have been received from the field authorities that under the Income-tax Act, 1961 (hereinafter referred to as "the Act") there is no provision available to the Assessing Officer to give effect to the order passed by the DA under sub-section (1) of section 5 and under sub-section (2) of section 5 of the Vivad se Vishwas in the case of a declarant. Since orders passed by the DA have a consequential effect under the Act, it has been requested that suitable clarifications may be issued to enable the AO to pass consequential orders under the Act.*
>
> *4. In view of the foregoing, and in exercise of the powers conferred on the Board under section 10 of Vivad se Vishwas, it is hereby clarified that where the DA has passed orders under sub-sections (1) and (2) of section 5 of Vivad se Vishwas, the Assessing Officer shall pass consequential order under the Act."*

28. A plain and simple reading of the aforesaid paragraph nos.3 and 4 of the Circular No.03 of 2021 dated 04.03.2021, manifests about passing of a consequential order by the Assessing Officer after the designated authority passes the order under sub-section (1) and sub-section (2) of Section 5 of *Vivad se Vishwas.* No time limit has been prescribed in the said Circular for passing the

consequential order.

29. At this stage, we may refer to the Central Action Plan 2021–2022 issued by the CBDT. Chapter-VI of Central Action Plan mentions about the jurisdictional charges under which the Jurisdictional Assessing Officers are required to undertake the exercise. Clause-9 of Chapter-VI of Central Action Plan 2021–2022 reads as under:

> *"9. JAOs to pass consequential orders and reduce demand or issue refunds, latest by 31.07.2021 in all VsV cases wherein Form 5 has been issued upto 30.06.2021. For all subsequent issue of Form 5, i.e. 01.07.2021 onwards JAOs may give necessary effect within 30 days."*

30. Thus, in context of passing the consequential orders and the issue of refunds, the CBDT has clarified that, wherein, Form-5 has been issued upto 30.06.2021, the Jurisdictional Assessing Officer (for short 'JAO') has to pass consequential order or issue refunds, latest by 31.07.2021. However, the revenue in the present case has disowned the Central Plan Action of CBDT.

31. In the present case, the Form-5 has been issued on 24.05.2021, before the cut-off date of 31.07.2021, and hence, as per the Clause-9 of Central Action Plan, 2021-22 issued by the CBDT, the JAOs was required to pass a consequential order by 30.06.2021. However, in the present case, the consequential order has been passed on 17.06.2022. No explanation has been

tendered for delay.

32. We may clarify that the Bombay High Court, while dealing with an analogous issue has resorted to Clause-9 of the Central Action Plan issued by the CBDT and has determined the date of 01.08.2021 (i.e. after 31.07.2021) for determining the interest on the delayed refund. However, a new issue has been raised before us by the Revenue that, as per the Circular No.03 of 2021 dated 04.03.2021, the Assessing Officer has to pass a consequential order under the provision of Section 153 of the IT Act, 1961 within a period of three months from the end of the month, in which the order is passed by the Assessing Officer.

33. We do not subscribe to the foregoing submission, since the Assessing Officer, while passing the consequential order dated 17.06.2022 and order dated 01.07.2026 under Section 154 of the IT Act, 1961, has not placed reliance on the time limit prescribed under Section 153 of the IT Act, 1961, but has placed reliance on the decisions of this Court in the case of ***Sahil Total Infratech (P.) Ltd. (supra)*** and in the case of ***Samarpan Foundation (supra).***

34. We are of the opinion that the timeline given in the provision of Section 153 of the IT Act, 1961 cannot be resorted to, for passing the consequential orders under VsV Act, 2020. The Circular No.03 of 2021 dated 04.03.2021 also does not refer that the consequential orders are to be passed by resorting to the

limitation provided under Section 153 of the IT Act, 1961.

35. Since neither the Circular nor the Central Action Plan refers to the provision of Section 153 of the IT Act, 1961, and this Court cannot impose the limitation prescribed under Section 153 of the IT Act, 1961 for passing the consequential order after issuance of FORM-5 as canvassed by the learned advocates appearing for the Revenue.

36. In our considered opinion, the Designated Authority, after issuance of Form-5 under sub-section (2) of Section 5 of VsV Act, 2020 is required to pass an order immediately after issuance of Form-5, since the declarant or the assessee has been offered a period of 15 days of paying the amount determined under sub-section (1) of Section 5 of the VsV Act, 2020. The provision of sub-section (1) and sub-section (2) of Section 5 of the VsV Act, 2020 or the Rule-7 of the VsV Rules, 2020 do not envisage of passing of any consequential order after issuance of Form-5 under Rule 7, but the same has been introduced by the Circular No.03 of 2021 dated 04.03.2021, and also by Action Plan. In the present case, two orders are passed after issuance of FORM-5 under Rule 7 on 24.01.2021. The first order giving effect to FORM-5 was issued on 17.06.2022. Thereafter, the refund order has been issued on 07.02.2024, and finally the amount is credited on 02.03.2024.

37. The provision of sub-section (2) of Section-5 of the VsV Act, 2020 stops at the stage of issuance of Form-5, which in the present case is issued on 24.05.2021. It does not envisage a situation of passing a consequential order. The Revenue in the Circular dated 04.03.2021 has not prescribed any timeline of issuing of a consequential order. However, the Central Action Plan, which has been referred and relied upon by the Bombay High Court categorically refers to Clause-9 which gives a specific date of passing of the consequential orders by the JAOs and issue refunds latest by 31.07.2021 in all *VsV* cases, wherein, Form-5 has been issued upto 30.06.2021, and for all subsequent issue of Form-5 of 01.07.2021 onwards, the JAOs may give necessary effect within 30 days. Thus, in the instant case, the JAO (the Assessing Officer), who was supposed to pass an order latest by 31.07.2021, since the Form-5 has been issued before the cutoff date of 30.06.2021, i.e. on 24.05.2021, order giving effect was required to be issued latest by 31.07.2021 and instead of said date, the same has been issued on 17.06.2022.

38. Surprisingly, even after the order giving effect to Form-5 has been issued on 17.06.2022, the amount of refund has been credited in the account of the petitioner only on 02.03.2024. Prior to that, the petitioner had already made the representations, i.e. first representation for claiming refund on 24.06.2021 then the petitioner made representation for claiming

interest on 11.03.2024.

39. Thus, we reject the submissions advanced by the Revenue for discrediting its Central Action Plan 2021–2022 issued by CBDT, wherein, the CBDT has clarified in Clause-9 with reference to the *VsV* cases. The VsV Act, 2020 is a special Act which has been promulgated giving benefit to the assessee and as the clarification issued by the CBDT for issuance of the consequential orders referred in the Clause-9 of the Central Action Plan under Chapter-VI for passing the orders latest by 31.07.2021 cannot be ignored. If that was the case, the Revenue, while issuing the Circular No.03 of 2021 dated 04.03.2021 would have again clarified about passing of the consequential orders giving effect to Form-5 as per the limitation stipulated in Section 153 of the IT Act, 1961, but, in absence of any such further clarification, the clarification issued in Clause-9 of the Central Action Plan by the CBDT in Action Plan has to be accepted. No contrary decision of the CBDT has been pointed out before us nullifying the provision of Clause-9. Hence, the Revenue cannot disown the explanation referred in Clause-9 of the Central Action Plan, 2021–2022. In our opinion, since the provision of sub-section (2) of Section 5 of the VsV Act, 2020 do not refer to passing of any consequential order on Form-5, the timeline given to the declarant/assessee for depositing the amount for 15 days, is equally required to be followed by the Assessing Officer, in passing the consequential

orders. However, we are of the opinion that, since the CBDT has already clarified the cut-off date of passing consequential order by 31.07.2021, in those cases where the Form-5 has been issued prior to the cut-off date of 30.06.2021, we are not inclined to further clarify the time/period of passing the consequential orders.

40. The claim of interest on the amount of refund is well crystalised law. The landmark judgment of the Supreme Court in the case of ***Tata Chemicals Ltd. (supra)*** recognizes the claim of interest on refund. It is held that interest is a kind of compensation of use and retention of the money collected unauthorizedly by the Department, and is statutorily embedded in the provisions of Section 244A of the IT Act, 1961, and the Government, cannot shrug off its apparent obligation to reimburse the deductors lawful monies with the accrued interest for the period of undue retention of such monies. It is held that the State having received the money without right, and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest.

41. Hence, we direct the respondents to confer interest at the rate of 6% for the period from 01.08.2021 till 02.03.2024, (the date of crediting the refund).

42. The directions of this Court shall be implemented within a period of ***six weeks*** from the date of receipt of writ of this order.

43. We further clarify that, if the order passed by this Court is not complied with and the amount is not paid within the time specified by this Court, the said amount will carry further interest of 9% per annum, which shall be recovered from the erring officer/s.

Accordingly, writ Petitions stand partly ***allowed***.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(VAIBHAVI D. NANAVATI,J)

Pradhyuman/s.b.-2 to 5/