

# TAX INFO

*Dated 16.08.2020*

Latest update on GST Law: Information regarding **Important ruling that Interest cannot be levied on Gross GST Liability before adjusting ITC** based on the **Judgement issued by Madras High Court.**

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## **Interest cannot be levied on Gross GST Liability before adjusting ITC**

<b>Name of Petitioner</b>	Refex Industries Ltd.
<b>Name of Respondent</b>	Assistant Commissioner of CGST & Central Excise
<b>Court</b>	Madras High Court
<b>Date of Judgement</b>	06.01.2020
<b>Order No.</b>	WP.23360/2019

The Petitioners are registered as assesseees under the provisions of the CGST Act, 2017 and have admittedly filed Returns of Income belatedly for the period 2017-2018. The Respondent have issued Communications computing the delay in filing of Returns and consequently the interest to be remitted on the tax amount shown in the Returns.

Demand notices were issued to the Banks of the Petitioners seeking to recover the arrears of interest from the balances in their accounts. The Petitioners objected stating that they had sufficient Input Tax Credit available with the Department and thus interest could be demanded, if at all, only on the cash component of the tax remitted belatedly.

It was held that Section 50 is specifically intended to apply to a state of deprivation & cannot apply in a situation where the State is possessed of sufficient funds to the credit of the assessee. The proper application of Section 50 is one where interest is levied on a belated cash payment but not on ITC available with the Department to the credit of the assessee since the latter being available with the Department is neither belated nor delayed.

The Hon'ble Madras HC further commented that the proviso to Section 50(1), as per which interest shall be levied only on that part of the tax which is paid in cash, has been inserted with effect from August 1st, 2019, but clearly seeks to correct an anomaly in the provision as it existed prior to such insertion and hence should be read as clarificatory and operative retrospectively

**Suresh Aggarwal, Advocate, Tax Consultant**

**Address:** House No. 54, Pocket A-3, Sector-5, Rohini- 110085

**Phone:** 91-9810032846; 011 - 45131427

**Email:** sureshagg@gmail.com

**Website:** <http://www.sureshtaxation.com>