Karnataka High Court Union Home Products Ltd. vs Union Of India And Another on 24 February, 1995 Equivalent citations: ILR 1995 KAR 2366, 1995 215 ITR 758 KAR, 1995 215 ITR 758 Karn Author: T S Thakur Bench: T Thakur JUDGMENT Tirath S. Thakur, J. 1. In this batch of writ petitions, the petitioners call in question the constitutional validity of sections 234A, 234B and 234C of the Income-tax Act, 1961, inserted by the Direct Tax Laws (Amendment) Act, 1987, with effect from April 1, 1989. 2. Briefly stated, section 234A makes a provision for the payment of simple interest calculated at the rate of 24 per cent. per annum by an assessee, who commits default in furnishing a return of income under section 139(1) or section 139(4) or in response to a notice sent to him under section 142(1) of the Act. The amount at which such interest is payable and the period for which the same is payable is set out in the provision itself, reference whereto shall be made in detail a little later. 3. Section 234B of the Act, on the other hand, provides for payment of interest by an assessee, who even though liable to pay advance tax under section 208 of the Act, has either failed to pay such tax or the advance tax paid under section 210 of the Act is less than 90 per cent. of the tax assessed against him. The rate of interest prescribed is 24 per cent. per annum simple on the amount and for the period set out in the provision, to which details I shall turn presently. 4. Section 234C, however, regulates the payment of interest at the rate of 18 per cent. per annum simple in case an assessee liable to pay advance tax under section 208 of the Act, either fails to pay such tax or pays the same so as to be less than 30 per cent. by the 15th of September, or 60 per cent. by the 15th of December of the tax due on the returned income. The amount and the period for which such interest is made payable by this provision has also been set out in the section itself. 5. The challenge thrown to these provisions is almost entirely based on the plea, that each one of these sections, if not wholly, it least partially carries with it an element of penalty; which an assessee is made to suffer, without affording him an opportunity of being heard and in particular without giving him a chance to prove that the default for which he is being penalised by the imposition of a heavy interest liability was not deliberate or was for reasons beyond the control of the assessee concerned. The petitioners contend that once it was accepted that the provisions were penal in character, it would follow as a corollary that the assessees would be entitled to be heard before they could be punished under the same and that inasmuch as such an opportunity was denied by the impugned provisions, they would be liable to be struck down as ultra vires or at least read down to make an opportunity of being heard implicit in them if the same were to be saved from the vice of unconstitutionality. 6. In the reply filed on behalf of the respondents, which has been adopted in all these petitions, it is contended that the impugned provisions are only compensatory in nature and no part thereof is penal in character so as to attract the doctrine of audi alteram partem to the process of application of the said provisions to individual cases. It is further contended that the provisions are constitutionally perfect and ought not to be interfered with. 7. I have heard learned counsel appearing for the petitioners in their respective cases and Mr. Dattu, learned standing counsel for the respondents, at length. 8. Appearing for the peti-

tioners, learned counsel strenuously urged that the provisions of sections 234A, 234B and 234C of the Act are not wholly compensatory though some part of the interest liability levied upon the assessees in default was certainly compensatory in nature. They urged that the impugned provisions had replaced the earlier provisions of the Act, providing for the payment of interest and penalty both, and were therefore an amalgam of both those elements. It was further contended that the provisions were penal in nature not only because of the rate of interest levied thereunder, but also because of the period for which the same was levied. Reliance was placed upon the circular issued by the Board explaining the scope and ambit of the said provisions; to point out that there were situations in which the charge of interest under one provision overlapped with the charge of interest under the other; which deprived the levy of its compensatory character; for if the charge was compensatory, contended learned counsel, there was no question of the same being made twice over again for the same period. 9. Mr. Dattu, on the other hand, argued that the provisions in question were simply compensatory in nature and had no element of penalty in them no matter there was in certain situations a possibility of overlapping of the charge. He urged that the rate of interest the amount at which the same is charged and the period for which the charge is made all show that the provisions are compensatory and not penal in character. 10. What then is the true nature of the levy under the impugned provisions ? Is it purely compensatory in character as urged by the respondents, or does it have an element of penalty embedded in it as argued by the petitioners, is the crucial question that demands an answer at the threshold. This would necessarily require a closer look at the provisions under challenge; in particular with a view to identifying the amount and the period for which the interest is charged in the event of a default falling within the purview of any one of the said provisions. This is so for the reason that the true nature of the levy under these provisions can be determined only on the touchstone of the above two factors, besides the rate statutorily fixed; which was according to learned counsel for the petitioners, highly exorbitant and, therefore, per se penal in nature. 11. Section 234A of the Act makes the default of an assessee in filing or filing on the due date, his return of income under section 139(1) or section 139(4) or in response to a notice under section 142(1), the foundation for the levy of interest. That Parliament could make a provision for payment of interest in the event of a default by an assessee in filing his return has not been questioned before me and perhaps rightly so, because, the power to levy a tax, and to prescribe the mode and the machinery for the recovery of the same would of necessity include even the power to levy interest on the commission of a default by the assessee liable to pay the principal levy. The amount, at which such interest is payable, is also more than clearly discernible from the provisions of the section itself. It is the amount of tax on the total income as determined under section 143(1) of the Act or on regular assessment reduced by the advance tax, if any paid and any tax deducted or collected at source. In other words, the amount on which the interest is calculated is the amount payable by the assessee towards tax, less the amount already paid by him. This means that the amount of tax which ought to have been paid by the assessee but was not paid

because of the non-filing or the delayed filing of the return, becomes the principal amount for the purposes of calculation of the assessee's liability on account of interest. Then comes the period for which the interest liability is imposed. In terms of section 234A(1) (a) and (b), the period for which the interest liability is calculated is the period between the date on which return was due to be filed and ending on the date the same is actually furnished and where no return is furnished ending on the date of the completion of the assessment under section 144 of the Act. So also, the period for which interest is calculated under section 234A(3) is the period commencing on the day immediately following the expiry of the time allowed to the assessee under the notice referred to in the said provision and ending on the date of furnishing the return or where no return is furnished ending on the date of completion of the reassessment or recomputation under section 147 of the Act, on the amount by which the tax on the total income determined on the basis of such reassessment or recomputation exceeds the tax on the total amount determined under section 143(1) or on the basis of the earlier assessment. 12. It is, therefore, fairly manifest that the amount on which the interest is levied, is the amount, which can legitimately be said to be public revenue though payable by the assessee, but not paid by him. Levy of interest on such amount which an assessee withholds and makes use of cannot be said to be anything but a compensatory measure, meant to offset the loss or prejudice which the Revenue suffers on account of the non-payment of the said amount. This is particularly so when we find that the period for which the levy is made does not have an element of penalty in the same. The period for which this additional liability is imposed is an important feature which very clearly gives out the true legislative intent, behind the levy. The period, it is apparent, is so fixed as to make section 234A a pure and simple compensatory provision. Levy of interest for the period between the due date and the date on which the return is furnished can by no means be a penal provision nor can such a levy up to the date of assessment under section 144 be deemed to be penal, in cases, where the assessee does not even furnish a return despite a notice issued to him to do so. This is true even in cases covered by section 234A(3), where too the amount on which the interest is calculated and the period for which the same is levied, do not have the flavour of a penal provision and are strongly suggestive of the levy being compensatory in character. 13. Let us then turn to section 234B of the Act. This provision like sections 234A and 234C is applicable to the assessment year 1989-90 onwards; and provides that where an assessee fails to pay advance tax or the tax paid by him under section 210 is less than 90 per cent. of the assessed tax, the assessee shall be liable to pay simple interest at two per cent. for every month or part of a month comprised in the period from the first day of April next following such financial year to the date of determination of the total income under sub-section (1) of section 143 or regular assessment; on the amount of tax assessed or the amount by which advance tax paid falls short of the assessed tax, as the case may be. The term "assessed tax" has been defined by Explanation I for purposes of section 140A to mean, the tax on the total income as declared in the return referred to in that section and in any other case, the tax on the total income determined under sub-section

(1) of section 143 or on the amount of tax deducted or collected at source. It is, therefore, apparent, that from the standpoint of the amount on which the interest liability is worked out as also the period for which the same is levied, the provision is only compensatory in nature, with no element of penalty in it. Further, the provision contained in section 234B(1), providing for payment of interest only in case the amount of advance tax falls short of 90 per cent. of the assessed tax and the provisions of section 234B (2), (3) and (4) clearly bring out, the legislative intent behind the provision. For instance in terms of section 234B(2), if an assessee pays the amount of tax under section 140A or otherwise, before the completion of a regular assessment, then the liability of interest is limited up to the date of such payment, reduced by the amount of interest if any paid by the assessee under section 140A towards interest chargeable under section 234B. Interests is thereafter chargeable at the stipulated rate only on the amount by which the tax so paid is, together with the advance tax paid, short of the assessed tax. So also in terms of section 234B(3), the tax payable upon reassessment or recomputation is calculated for the period between the date of assessment and the reassessment or recomputation, on the amount by which the tax on the total income determined on the basis of the reassessment or recomputation exceeds the tax on the total income determined under section 143(1) or on the basis of the regular assessment as the case may be. This is true even in regard to the contingency provided for by section 234B(4), which caters to situations where the amount on which interest is payable may increase or decrease, on account of an order under sections 154, 155, 250, 260, 262 and 263 or on account of an order of the Settlement Commission. In all such cases, the interest amount, if found to have been paid in excess, becomes refundable, in the same fashion as the interest short levied or paid is made payable by the assessee. All these provisions, therefore, leave no manner of doubt that the provisions of section 234B are only compensatory with no element of penalty in them. That brings me to section 234C of the Act which regulates payment of interest for deferment of advance tax. A careful reading of the provisions of section 234C shows that even these provisions are compensatory in character and do not have any element of penalty in them. The provision makes "interest" payable should an assessee, liable to pay advance tax under section 208, fails to pay such tax or having paid the same the tax deposited on or before the 15th of September, be less than 30 per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th of December, be less than 60 per cent. of the tax due on such income. In any such situation, the assessee is made liable to pay interest at 1 1/2 per cent. per month for a period of three months on the amount of the shortfall from 30 per cent. or, as the case may be, 60 per cent. of the tax due on the returned income. It is, therefore, apparent that the interest liability is calculated on the amount which falls short of the statutorily prescribed percentage of 30 per cent. or 60 per cent. of the tax amount as the ease may be. 14. The fact that the amount of interest is calculated on the amount of shortfall clearly suggests that the liability on account of interest is by way of compensation for the non-payment of the amount of tax otherwise legitimately payable by the assessee. The rate of

interest calculated is only 1 1/2 per cent. per month, in contradistinction to two per cent. as prescribed under sections 234A and 234B . The reason appears to be apparent. The interest at 1 1/2 per cent. is charged because the provisions of section 234C provide for charging of the interest for a period of three months as against one month or a part of a month as envisaged by sections 234A and 234B. The legislative intent is, however, made manifest by the proviso to section 234C, according to which, the provisions of sub-section (1) of section 234C will have no application to cases where the shortfall in the making of the deposit by the assessee on the returned income is on account of an underestimate or failure to estimate the amount of capital gains or the income of the nature referred to in sub-clause (ix) of clause (24) of section 2 of the Act. Sub-clause (ix) of clause (24) of section 2 pertains to income from any winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from any gambling or betting of any form or nature whatsoever. It is, therefore, clear that while levying interest for deferment of advance tax the Legislature has taken care to exclude from consideration the income which an assessee may happen to receive either on account of capital gains or on account of lottery and other winnings referred to above. The provision that the shortfall on account of the failure to estimate or underestimation of the income received by an assessee on account of the aforesaid two heads is, therefore, a clear indication of the fact that the provision is compensatory in character. 15. On behalf of the petitioners, it was strenuously urged that the provisions of sections 234A, 234B and 234C of the Act, were, if not wholly, at least partially, penal in character. It was submitted that the provisions of these three sections had replaced the earlier provisions contained in the Act providing for not only payment of interest but imposition of penalty in the event of default by the assessees. It was, therefore, contended that these provisions which now substitute the earlier provisions for the period following April 1, 1989, are an amalgam of both the provisions regulating payment of interest and imposition of penalty and that even when the provisions impugned did not specifically or in so many words suggest that they are penal in character the real nature of the said provisions and the levy imposed by them was in the nature of a penalty. Reference was made in this regard to the circulars issued by the Board under section 119 of the Act with a view to point out that the provisions of sections 234A, 234B and 234C were by way of replacement of the old provisions. Reliance was also placed upon the Statement of Objects and Reasons for the introduction of the Direct Tax Laws Amendment Bill, 1987, and, in particular, upon para 6 of the said statement to point out that the amendments were sought to replace the existing system of interest and penalties by a system of mandatory interest to compensate the Government for the loss of revenue and also to deter the assessee from repeatedly committing the default. It was argued that the element of deterence brought into the provisions of sections 234A, 234B and 234C was nothing but an element of penalty which clearly made the provisions in question penal in character. 16. I have given my thoughtful consideration to the submissions made but find it difficult to accept the same. It is true that the old provisions providing for payment of interest and penalty have been replaced by

the provisions of sections 234A, 234B and 234C but the very fact that the old system has yielded place to the new does not by itself suggest that the new system gets its colour from the old. The new provisions will have to be interpreted in the light of the language employed therein and the purpose they purport to achieve, in which process, the nature of the earlier provisions is but a matter of history which can rarely, if ever, influence materially, the true meaning to be given to the provisions being interpreted. A plain reading of the Statement of Objects and Reasons for the introduction of the Bill shows that the same is not an isolated act of introducing a provision in the place of an earlier existing one. The Bill in question was preceded by the constitution of a Committee, the recommendations whereof appear to have been examined with a view to simplification and rationalisation of direct taxes, and the response received to the proposed changes from the Members of Parliament, economists, Chambers of Commerce and Industry as also individual taxpayers taken into consideration. Based on this comprehensive exercise, the Bill in question was introduced with a view to give certain directional changes to achieve the object of simplification of the law and procedure relating to direct taxes in keeping with the policy of reposing trust in the taxpayers while encouraging voluntary compliance. 17. One of the objects behind the introduction of the Bill was to remove the uncertainty in the matter of assessment by cutting down areas of subjective decisions of tax authority with a view to ensure uniform treatment of persons similarly placed and to reduce litigation. It was felt that the existing provisions which gave the assessing authority discretionary powers to levy penalties as well as interest for the same default ought to be replaced by a system of mandatory interest to compensate the Government for the loss of revenue. The very fact that the new system introduced by the provisions of sections 234A, 234B and 234C relating to payment of mandatory interest was also meant to deter the assessees from repeatedly committing default does not necessarily mean that the provisions in question were penal in character. It is possible to create a deterrent effect on the assessees committing default by providing for a rate of interest on mounts withheld which may make it unprofitable and uneconomical for the assessees to withhold the payment of tax legitimately due to the Government. The term "deter the assessee from committing default" as appearing in paragraph 6 of the Statement of Objects and Reasons cannot, therefore, be given more weightage than is due to it. 18. That apart, it is one of the well recognised principles governing interpretation of statutes that the Statement of Objects and Reasons is not admissible for construing the provisions contained in an enactment much less can it control the actual words used in the legislation. It is equally well settled that the Statement of Objects and Reasons accompanying a Bill cannot be used except for the limited purpose of understanding the background and the antecedent state of affairs leading up to the legislation. All that the Statement of Objects and Reasons can possibly show is to explain what reasons induced the mover to introduce the Bill in the House and what objects it sought to achieve. Those objects and reasons may or may not correspond to the objective which the majority of members had in view when they passed it into law. The Bill may have undergone radical changes during its passage

through the Houses, as there is no guarantee that the reasons which led to its introduction and the objects thereby sought to be achieved have remained the same throughout till the Bill emerges from the House as an Act of the Legislature. It is, therefore, very rarely and rather sparingly that the Statement of Objects and Reasons behind the introduction of the Bill is called in did for arriving at the true legislature intent behind a particular statutory provision. Reference in this connection may be made to Aswini Kumar Ghose v. Arabinda Bose, , Central Bank of India v. Their Workmen and State of West Bengal v. Union of India, . 19. It was next argued on behalf of the petitioners that since there is overlapping both in respect of the period for which the amount of interest is calculated as also the amount on which the same is worked out, the levy must be held to be penal nature. Reference in this connection was made to the examples cited in Circular No. 549 (see [1990] 182 ITR (St.) 1), dated 31st October, 1989, issued by the Central Board of Direct Taxes. This circular and the examples given therein, inter alia, point out the method of calculation of the amount of interest payable in the event of an assessee committing default under the impugned provisions. In terms of the example the liability to pay interest under section 234A is incurred by the assessee if he delays the filing of the return, but besides interest under section 234A the assessee also incurs the liability to pay interest under section 234B of the Act in case he has not paid advance tax in accordance with the provisions of the Act. A careful reading of the Board Circular does show that there is an overlapping in so far as the period for which the interest is calculated under the said two provisions is concerned. In other words, interest is calculated first under section 234A of the Act and again under section 234B for the same period. It was argued that if the levy of interest was compensatory in character there was no question of the Revenue levying any such charge twice over gain for the same period. Inasmuch as interest was being charged for the same period twice, though under two different provisions, argued learned counsel, the same were in substance and reality provisions in the nature of penalty. 20. Mr. Dattu, on the other hand, strenuously submitted that the provisions of sections 234A, 234B and 234C have to be seen as independent provisions, catering to different situations and not as a single provision, applying to any one of such situations. He argued that so viewed the provisions are self-contained and their compensatory character is not lost. 21. I find considerable merit in the submission made by Mr. Dattu. The provisions of sections 234A, 234B and 234C are meant to cater to different situations. Each situation is distinctly different from the other and attracts a liability by way of interest. The question whether the provision making interest payable on the happening of any event is a provision which is compensatory in character will have to be answered in the context of the language and the purpose behind the provision and not by reference to other provisions of similar or analogous nature. Viewed thus, it is not possible to hold that the provisions of sections 234A, 234B and 234C are provisions of a penal nature simply because, in actual application of these provisions there may be situations where an assessee may render himself liable to payment of interest under each one of these provisions simultaneously for the same period nor can the compensatory nature of

the provisions be deemed to have been lost simply because in a given situation the provisions may, on account of their simultaneous application to an assessee raise the liability to pay interest for the overlapping period to a rate higher than two per cent. per month. So long as the basic character of the levy remains compensatory the rate of interest which is levied either by the provision itself or on account of its dual effect in a given situation will be wholly immaterial. I have, therefore, no hesitation in repelling the argument advanced by learned counsel for the petitioners that the levy envisaged by sections 234A, 234B and 234C is penal in character by reason only of the said provisions in certain situations applying for periods which are overlapping. 22. It was then submitted by learned counsel appearing for the petitioners that since the rate of interest chargeable under the impugned provisions was higher than the rate which was admissible to the assessee in the event of the refund of tax paid in excess, the charge under the impugned provisions was in the nature of a penalty. Reference in this connection was made by learned counsel to the provisions of sections 220(2), 244 and 244A to show that different rates of interest were prescribed for different situations. It was argued that there was a definite legislative design behind the imposition of interest at different rates and, therefore, the charge of interest at the rate of two per cent. per month in the case of sections 234A and 234B and one and a half per cent. per month in the case of section 234C, besides being highly excessive, manifestly makes the levy penal in nature. I find no substance even in this submission of learned counsel. The very fact that for refunds due to an assessee from the Department on account of excess amount of tax paid the rate of interest applicable is lower than two per cent. or that different rates are prescribed for different situations covered by different statutory provisions does not in my opinion go to show that the rate of interest prescribed under the impugned provisions is either penal in character or that the same makes the provisions themselves penal. As a matter of fact the levy of interest under sections 234A, 234B and 234C has no co-relation whatsoever with the provision regarding payment of interest by the Department on the refunds due to the assessee. Even if there was no provision for payment of interest on the refunds due to an assessee the provisions of sections 234A, 234B and 234C could not be said to be penal in character simply because of the absence of a provision for payment of interest on the refunds. The very fact that a lower rate of interest is prescribed for refunds to be made to the assessees therefore does in no manner suggest let aloe conclusively show that the higher rate of interest prescribed by the provisions of sections 234A, 234B and 234C of the Act makes the said provisions penal in nature. Reference in this connection may be made to Khazan Chand v. State of Jammu and Kashmir . That was a case in which the provisions of the Jammu and Kashmir Sales Tax Act providing for interest from 12 per cent. to 36 per cent per annum were called in question on the ground that the imposition of such a high rate was per se arbitrary and therefore unconstitutional. Repelling the argument, the Supreme Court held that even though the rate of two per cent. per month and particularly the rate of three per cent. per month can be said to be on the higher side yet it was difficult to appreciate how the imposition of such a higher rate of interest would

make the provision void or unconstitutional. The following observations are apposite in this connection (at page 224) : "The second part of the challenge under article 14 was with respect to the rates at which interest is payable under sub-section (2) of section 8 on the amount of tax paid after the expiry of the prescribed date of payment. It is true that the rate of two per cent. per month and particularly the rate of three per cent. per month can be said to be on the high side, but we fail to see how this would render the provisions of that sub-section void or unconstitutional. Providing for payment of interest in the case of delayed payment of tax is a method usually adopted in fiscal legislation to ensure that the amount of tax which is due is paid by the prescribed time and provisions in that behalf form part of the recovery machinery provided in a taxing statute. It is for the State to provide by what means payment of tax is to be enforced and a person who does not pay the amount of tax lawfully and admittedly due by him can hardly complain of the measures adopted by the State to compel him to pay such amount. It neither lies in the defaulter's mouth to protest against the rate of interest charged to him nor is it open to him to dictate to the State the methods which it should adopt for recovering the amount of tax due by him." 23. It was next argued that the charge of interest ought to have been only for the period for which the assessee withheld the amount of tax payable by him. In other words, if the payment of the amount of tax was delayed for a period of 15 days then the interest chargeable ought to have been only for the said period, and not for a period of one month as is the position under the provisions of section 234A or for a period of three months as envisaged by section 234C. Charging of interest for a period more than the period for which the amount of tax was withheld by the assessee, it was argued, makes the provisions penal in character. This was particularly so in the case of interest chargeable under section 234C where even when the delay in the making of the payment was of one single day the amount of interest chargeable from the assessee was for a period of three months which, according to the petitioners, was wholly unjustified and therefore made the provision penal. I do not however find any merit even in this submission of learned counsel. The provisions of section 234A prescribing payment of interest for one complete month even if the default was for a part only of the said period does not in my opinion render the provision penal in nature. Such a provision is obviously made with a view to facilitate computation of liability incurred by an assessee and not to impose any penalty upon him. By prescribing calculation of interest on monthly basis, the provision cannot be said to have lost its compensatory character. This is true even in regard to section 234C where the interest payable is not for the period for which the amount of tax was actually withheld but for a period of three months. A careful reading of section 234C would show that the same provides for payment of 30 per cent. of the tax due on the returned income before September 15, of the relevant year. The remaining 50 per cent. has to be paid by December 15, i.e., after a period of three months. It therefore appears that in its scheme the provision envisages payments by reference to a quarter of a year. For the first two quarters beginning April 1, of the relevant year the payment required to be made is 30 per cent. of the tax due whereas

for the third quarter the payment has to be an additional 30 per cent. so as to make it 60 per cent. on the whole. In that scheme of things, therefore, if the section provides for payment of interest for one full quarter of a year, in the event of default on the part of the assessee in making the payments due on the stipulated dates the same cannot be said to be penal in character. 24. I may, at this stage, refer to a few cases cited at the Bar relating to the true nature of the provisions stipulating payment of interest on the amounts withheld by the assessee. In Central Provinces Manganese Ore Co. Ltd. v. CIT [1986] 160 ITR 961, the Supreme Court was considering the nature of the levy of interest under sections 139(8) and 215 of the Act. It was held that even though called penal interest, the levy under these two provisions was only compensatory in nature. The following passage from the judgment speaks out the logic behind that view (at page 965) : "At the very outset, it is necessary to consider the nature of the levy of interest under sub-section (8) of section 139 and under section 215. It is not correct to refer to the levy of such interest as a penalty. The expression 'penal interest' has acquired usage, but is in fact an inaccurate description of the levy. Having regard to the reason for the levy and the circumstances in which it is imposed, it is clear that interest is levied by way of compensation and not by way of penalty. The Income-tax Act makes a clear distinction between the levy of a penalty and other levies under that statute. Interest is levied under sub-section (8) of section 139 and under section 215 because, by reason of the omission or default mentioned in the relevant provision, the Revenue is deprived of the benefit of the tax for the period during which it has remained unpaid. The very period for which interest is levied under the relevant provision points to the nature of the levy. If that is borne in mind, it will be apparent that the levy of interest is part of the process of assessment." 25. To the same effect is the view taken by the Supreme Court in Ganesh Das Sreeram v. ITO [1988] 169 ITR 221, where the observations made in the case noted earlier in Central Provinces Manganese Ore Co. Ltd. v. CIT , and those in M. Chandra Sekhar's case , were approved in the following words (at page 227) : "It is submitted by learned counsel appearing on behalf of the appellants that as, in view of the late filing of the returns, there is postponement of the payment of tax and the Revenue suffers loss on account of delayed payment of tax, the interest when levied takes the character of penalty. This contention need not detain us long, for it has already been decided by this court in Central Provinces Manganese Ore Co. Ltd. v. CIT [1986] 160 ITR 961, that interest is levied by way of compensation and not by way of penalty. In Chandra Sekhar's case , also this court has taken a similar view. The High Court, however, has taken the view that the interest charged partakes also of a penal character. In expressing that view, the High Court has placed reliance upon a decision of this court in Jain Brothers v. Union of India [1970] 77 ITR 107. In that case, this court was mainly considering a challenge to section 271(2) of the Act, which is a penal provision, on the ground of contravention of article 14 of the Constitution. The question whether charging of interest under the proviso to section 139(1) of the Act was in the nature of penalty or not, was not considered by this court. Indeed, the subject-matter was different from that with which were concerned. In

view of the decisions of this court in Chandra Sekhar's case [1985] 151 ITR 433, and the of Central Provinces Manganese Ore Co. Ltd., [1986] 160 ITR 961, we hold that the charging of interest did not become transformed into penalty." 26. In Satischandra and Co. v. Deputy Commr. of Commercial Taxes , a Division Bench of this court was dealing with the question whether the provisions of section 13 of the Karnataka Sales Tax Act, 1957, prescribing payment of interest by way of penalty was in effect and substance a compensatory provision. Relying upon the Judgment of the Supreme Court in Haji Lal Mohammed Biri Works v. State of U.P. [1973] 32 STC 496, and of a Division Bench of this court in Sha Ghelabhai Devji and Co. v. Asst. Commr. of Commercial Taxes [1986] 62 STC 418, this court held that even when the provisions of section 13 refer to payment of interest by way of penalty yet in substance the said provision was only compensatory in nature. 27. Seen in the light of this case-law it is fairly obvious that the provisions of sections 234A, 234B and 234C, which replace the earlier provision postulating payment of interest and are in pari materia with the said provisions cannot be anything except compensatory in character. The only material difference in the two situations is that while the old provisions conferred power to waive or reduce the levy of interest, the impugned provisions make the same automatic. 28. That takes me to the other limb of the petitioners' case. It was contended on behalf of the petitioners that even if the provisions of sections 234A, 234B and 234C of the Act were held to be compensatory in nature still the assessing authorities must be deemed to be under an obligation to provide to the assessee concerned an opportunity of being heard against the imposition of interest under the said provisions. It was argued on the authority of N. V. N. Nagappa Chettiar v. ITO [1958] 34 ITR 583 (Mad), that interest was a part of assessment itself and therefore the obligation to hear the assessee even in regard to the levy and charging of interest was implicit. As a corollary it was contended that any such opportunity of being heard will be illusory unless the authority concerned is also deemed to be empowered to grant relief to the assessee if it comes to the conclusion that the default committed by the assessee and attracting the levy of interest even though compensatory in character was for reasons beyond the control of the assessee concerned. It was urged that even the recovery of compensation from an assessee was impermissible without giving him an opportunity of being heard if it was proved that the assessee was not deliberately in default. 29. The argument on its face value appears attractive and enticing. A closer examination, however, betrays its merit, precisely for two reasons. In the first place, the very purpose behind the introduction of sections 234A, 234B and 234C is to take away from the authorities concerned the discretion of reducing or waiving the levy of interest which was earlier exercisable by them. In other words, the impugned provisions do not envisage the grant of any hearing or the grant of any relief to the assessees concerned in so far as the levy of interest is concerned. The levy is automatic the moment it is proved that the assessee has committed a default within the comprehension of any one of the provisions in question. That being so it is difficult to accept the argument that the authorities must grant such a hearing and exercise the power to grant relief, the legislative intent to the contrary notwithstanding. The principles of natural

justice upon which the petitioners rely do not supplant the law, they simply supplement it. These principles have no application where a statute either by express words or by necessary implication excludes the grant of a hearing to the assessee concerned. The provisions of sections 234A, 234B and 234C are in my opinion incapable of being interpreted to mean that the assessee concerned has a right of being heard against the levy which is otherwise automatic in nature. Reference in this connection may be made to two judgments, namely, Gopinath v. Third Addl. Civil Judge (Sales Tax Revision petition No. 65 of 1978 decided on March 7, 1980), and S. Ramakrishnan v. ITAT [1992] 193 ITR 147 (Mad). In the former a Division Bench of this court was called upon to decide whether an assessee was entitled to a hearing against the imposition of penalty under section 13 of the Karnataka Sales Tax Act, 1957. This court answered the question in the negative holding that even though section 13 referred to the levy as penalty the same was in substance only an interest provision, and since the rate at which the same was to be charged and the period for which it was chargeable were both prescribed by the statute itself - the levy was attracted automatically. The argument that the assessee was entitled to a hearing before a charge was made against it, was repelled in the following words : "Another submission made on behalf of the petitioner was that at least he should have been heard before treating him as a defaulter and fixing the liability under section 13(2) of the Act. The said submission is also untenable in view of the aforesaid decision of the Supreme Court as also the decision of this court in Sterling Construction and Trading Co.'s case [1973] 32 STC 235. The only difference between Haji Lal's case and the present case is that section 8(1A) of the Uttar Pradesh Act, provided for payment of interest at the prescribed rate during the period of default and under section 13 of the Act, the defaulting assessee is required to pay what is described as penalty at the rates prescribed. Except that the Uttar Pradesh Act preferred to describe the amount of additional liability imposed for making default in payment of tax, as interest and the Act describes it as penalty; their is no difference. As held by the Supreme Court, the liability to pay interest as required under section 8(1A) of the Uttar Pradesh Act was automatic. So also liability to pay penalty under section 13(2) of the Act is automatic. The quantum of penalty is also fixed under section 13(2) of the Act and the Act does not empower any authority to reduce or waive the penalty payable under the said provision under any specified circumstances. Therefore, the question of giving any opportunity to the concerned assessee before deciding as to whether any penalty should be levied or about the quantum of penalty payable does not arise. This was also the view taken by this court in Sterling Construction and Trading Co.'s case [1973] 32 STC 235." 30. This view was reaffirmed in two later judgments of this court in Patel Volkart (P.) Ltd. v. Commr. of Commercial Taxes [1986] 62 STC 411 and Sha Ghelabhai Devji and Co. v. Asst. Commr. of Commercial Taxes [1986] 62 STC 418. In S. Ramakrishnan v. ITAT [1992] 193 ITR 147, a Division Bench of the Madras High Court, was considering the question whether an application under section 254(2) of the Income-tax Act could have been dismissed by the Income-tax Appellate Tribunal, without hearing the petitioner who had made such an application. It was contended that

dismiss I of the application without granting any opportunity of being heard was in violation of the principles of natural justice. Repelling the argument that a hearing was necessary, Dr. A. S. Anand C.J. (as his Lordship then was) observed thus (at page 153) : "Compliance with the rules of natural justice is aimed at securing justice or to prevent miscarriage of justice. Where the Legislature, in its supreme wisdom, excludes the application of the rules of natural justice, it is improper for the courts to ignore the mandate of the Legislature. These rules, therefore, operate in areas not covered by any law validly made. In Union of India v. J. N. Sinha, , their Lordships opined (headnote of AIR) ...." 31. In the light of what is pointed out above it is difficult for me to accept the argument that the purpose behind the introduction and the language employed in the impugned provisions notwithstanding, the assessee would continue to have a right of being heard in the matter before the levy of interest under these provisions or that the authorities can continue to grant relief even in the teeth of the provisions in question. I have, therefore, no hesitation in repelling the submissions made by learned counsel in this regard. 32. It was then urged that the effect of the impugned provisions may, in certain situations, lead to such extremely harsh and palpably unjust results that the same may expose the provisions to the charge of unconstitutionality on the ground of their being wholly unfair and arbitrary. Learned counsel appearing for the petitioners in this regard identified certain such situations as would, according to them, make the impugned provisions look bizarre. These are as under : (a) Cases where retrospective amendments in the statutory provisions may have the effect of enhancing the income or reducing or otherwise disallowing relief or expenditure thereby increasing the levy under sections 234A, 234B and 234C; (b) Cases in which the assessee may, acting upon the judgment of a High Court, pay advance tax in a particular fashion but the said payment may become insufficient by reason of the reversal of the judgment by the Supreme Court; (c) Cases in which substantial unanticipated income may be generated towards the fag end of the accounting year thereby resulting in a short-fall in the payment of the first two instalments of advance tax; (d) Cases in which interest payable in land acquisition cases may be subjected to tax in the respective earlier years though the payment was actually received later or consequent upon the judgment of the Supreme Court thereby resulting in unanticipated shortfall in the advance tax paid; (e) Cases in which the sleeping partners' tax liability may get enhanced on account of the working partner's indifference or apathy in communicating the correct income to the partners; (f) Cases in which professionals in practice may not be able to anticipate their annual income even from the beginning of the year; (g) Cases in which the book profit is not ascertained where income under section 115J of the Act has to be computed and offered for taxation; (h) Cases in which an assessment may result in additions which may not be in the nature of concealment or may be due to differences in opinion which could never be anticipated; (i) Cases in which the assessee may suffer interest due to the delay in the completion of the assessment even though the delay was not attributable to him; 33. In all these situations it was contended that the impugned provisions of sections 234A, 234B and 234C would operate with such

extreme harshness that the same would render them wholly irrational and confiscatory and, therefore, liable to be quashed. 34. On behalf of the respondents, Mr. Dattu submitted that the situations pointed out by the petitioners are all hypothetical and extreme cases, which do not relate to any specific case in the present batch. He urged that the constitutional validity of a statutory provision was not open to challenge on the touchstone of an extreme or freak case, which may suffer the harshness of the provision but the same has to be seen from the standpoint of the generality of its application. He relied upon section 119 of the Act to show that the Legislature had provided a mechanism to mitigate the harshness of the provisions in appropriate class of cases, brought to the notice of the Central Board of Direct Taxes, and submitted that the Board had in fact issued certain circulars, in exercise of that power, to provide relief to deserving assessees. 35. That the extreme situations pointed out by the petitioners did not arise in any one of the cases, argued before me, was not in dispute, nor was it disputed that the situations pointed out were hypothetical which could arise, though had not actually arisen in any one of the cases in the present batch. These situations were pointed out, only to show that the impugned provisions would work harshly and in certain cases unreasonably, so, in an attempt to prove that the provisions were far from being perfect in their application or implications in varied situations. The question then is whether an imperfection of this nature can legitimately expose the provisions to a criticism or challenge to its vires. Is the validity of the legislation dependent on its or the capacity of the Legislature which enacts the same; to cater to all conceivable situations and to prevent any harsh and undesirable effect. Can a legislation, otherwise valid, be struck down simply because, in some extreme or freak case, it would operate so unfairly as to make it look penal or confiscatory. My answer would obviously be an emphatic - No. The presumption that the Legislature is supremely wise and informed about the needs of the time notwithstanding it is not expected to envisage and provide for all conceivable situations which may arise in the course of human affairs. Its legislative measures are therefore to be judged not by the capacity of the enactment to cater satisfactorily to all imaginable situations, but by the generality of the cases and the problems it aims and purports to solve or provide for. As observed by their Lordships of the Supreme Court in R. S. Joshi v. Ajit Mills Ltd. , a law has to be adjudged for its constitutionality on the generality of its provisions and not by the freaks and exceptions it martyrs. In matters relating to tax in statutes, courts in this country and so also in the United States have conceded a much greater latitude to the Legislature, keeping in view the sensitive and the complex nature of the economic mechanism and the difficulties inherent in the task of providing a near perfect answer to all possible situations. The courts have recognised the need to grant greater play in the joints and a greater amount of discretion and choice to the Legislature in matters pertaining to taxes and the statutes imposing the same. Simultaneously there is a certain amount of self-restraint imposed by the courts on themselves, while they tread on the rather slippery path of judicially examining the validity of the subject chosen for taxation and the methods provided for recovery of the same. The philosophy behind these concessions granted to the

law makers and the restraint exercised by the courts is so succinctly stated by the Supreme Court in a Constitution Bench judgment in R. K. Garg v. Union of India [1982] 133 ITR 239, that I can hardly resist the temptation of reproducing a passage from the same in extenso. The judgment proceeds thus (at page 255) :"Another rule of equal importance is that laws relating to economic activities should be viewed with greater latitude than laws touching civil rights such as freedom of speech, religion, etc. It has been said by no less a person than Holmes J., that the Legislature should be allowed some play in the joints, because it has to deal with complex problems which do not admit of solution through any doctrinaire or strait-jacket formula and this is particularly true in the case of legislation dealing with economic matters, where, having regard to the nature of the problems required to be dealt with, greater play in the joints has to be allowed to the Legislature. The court should feel more inclined to give judicial deference to legislative judgment in the field of economic regulation than in other areas where fundamental human rights are involved. Nowhere has this admonition been more felicitously expressed than in Morey v. Doud [1957] 354 US 457, where Frankfurter J., said in his inimitable style : 'In the utilities, tax and economic regulation cases, there are good reasons for judicial self-restraint if not judicial deference to legislative judgment. The Legislature after all has the affirmative responsibility. The courts have only the power to destroy, not to reconstruct. When these are added to the complexity of economic regulation, the uncertainty, the liability to error, the bewildering conflict of the experts, and the number of times the judges have been overruled by events, self-limitation can be seen to be the path to judicial wisdom and institutional prestige and stability.' The court must always remember that 'legislation is directed to practical problems, that the economic mechanism is highly sensitive and complex, that many problems are singular and contingent, that laws are not abstract propositions and do not relate to abstract units and are not to be measured by abstract symmetry' that exact wisdom and nice adoption of remedy are not always possible and that 'judgment is largely a prophecy based on meagre and uninterpreted experience'. Every legislation particularly in economic matters is essentially empiric and it is based on experimentation or what one may call trial and error method and, therefore, it cannot provide for all possible situations or anticipate all possible abuses. There may be crudities and inequities in complicated experimental economic legislation but on that account alone it cannot be struck down as invalid. The courts cannot, as pointed out by the United States Supreme Court in Secretary of Agriculture v. Central Reig Refining Co. [1950] 94 L. Ed. 381, be converted into Tribunals for relief from such crudities and inequities. There may even be possibilities of abuse, but that too cannot of itself be a ground for invalidating the legislation, because it is not possible for any Legislature to anticipate as if by some divine prescience, distortions and abuses of its legislation, which may be made by those subject to its provisions, and to provide against such distortions and abuses. Indeed, howsoever great may be the care bestowed on its framing, it is difficult to conceive of a legislation which is not capable of being abused by perverted human ingenuity. The court must, therefore, adjudge the constitutionality of such legislation by the generality of

its provisions and not by its crudities or inequities or by the possibilities of abuse of any of its provisions. If any crudities, inequities or possibilities of abuse come to light, the Legislature can always step in and enact suitable amendatory legislation. That is the essence of the pragmatic approach which must guide and inspire the Legislature in dealing with complex economic issues." 36. The above passage provides a complete answer to the argument of the petitioners based on the possible hardship in certain situations and authoritatively sets at rest the challenge to the constitutionality of provision on that ground. 37. There is, however, another aspect of the matter to which I must turn at this stage. This pertains to the in-built mechanism which the Income-tax Act provides for catering to cases of extreme hardship. This mechanism is prescribed by section 119 of the Act which empowers the Central Board of Direct Taxes to issue from time to time such orders, instructions and directions to the income-tax authorities as it may deem fit for the proper administration of the Act. Any such directions or instructions are made binding upon all persons employed in the execution of the Act by the provisions of sub-section (1) of section 119. Sub-section (2) of section 119, however, confers upon the Board powers of relaxation of any of the provisions mentioned in the said sub-section including sections 234A, 234B and 234C of the Act. Section 119(2) may be reproduced at this stage : "Section 119(2) : Without prejudice to the generality of the foregoing power, - (a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 139, 143, 144, 147, 148, 154, 155, (sub-section (1A) of section 201, sections 210, 211, 234A, 234B , 234C, 271 and 273 or otherwise), general or special orders in respect of any class of incomes or class of cases, setting forth directions or instructions (not being prejudicial to the assessees) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information." 38. A plain reading of the above provisions would show that the power vested in the Board can be exercised only for the benefit of the assessees and not to their prejudice. It is also apparent that the power vested in sub-section (2) includes the power to relax the provisions of sections 234A, 234B and 234C which relaxation can be either in whole or in part. The relaxation can be made either by general order or by special orders issued on the subject in respect of any class of incomes or class of cases, which in the opinion of the Board may deserve such a concession. In other words, the Legislature has itself provided a mechanism for reducing hardship in cases where the same deserved to be mitigated. The inclusion of sections 234A, 234B and 234C in the provisions of section 119(2) is a recognition of the fact that even when the impugned provisions may be compensatory in nature, the same may deserve to be relaxed in certain situations or class of cases to be prescribed by the Board by a general or special order issued in that behalf. It is also obvious that Par-

liament has anticipated and has provided for contingencies which may make the effect of even a compensatory provision also look harsh in certain situations. The provisions of section 119(2) are meant to provide a healing touch to the assessees falling in a particular category or class that may be found deserving. It is not, therefore, as though Parliament has made no provision whatsoever to cater to a situation which may warrant a lenient view against an assessee. The provisions of section 119 and in particular sub-section (2) thereof are in my opinion a sufficient legislative safeguard against the provisions of sections 234A, 234B and 234C operating harshly in a particular situation. The argument that the Board may not have the power to give relief in an individual case under section 119(2), does not impress me. The question is not whether the Board can grant relief in individual cases. The question is whether the Board can provide for relief in a class of cases which deserve a lenient, a more liberal or a less stringent view of the impugned provisions. So long as that power to prescribe the class of cases in which the provisions would apply less harshly is there, it is a sufficient safeguard. 39. In H. S. Anantharamaiah v. CBDT , one of the questions that fell for consideration of a Division Bench of this court was whether the power exercisable by the Central Board of Direct Taxes under clause (b) of sub-section (2) of section 119 was quasi-judicial in nature and if so whether it was obligatory for the Board to afford an opportunity to the party who was likely to be affected by its decision. Reversing the view taken by the single judge, the Division Bench, speaking through K. A. Swami, Acting C.J. (as his Lordship, then was), held that clause (b) of sub-section (2) of section 119 of the Act, empowered the Board to admit an application, a claim or a return filed after the expiry of the period specified for doing so to avoid genuine hardship caused to any case or class of cases. This power, it was held, was not administrative and was required to be exercised taking into consideration all the relevant facts and circumstances while deciding whether the delay in filing the return should or should not be condoned. The court observed thus (at page 532) : "Thus, the statute makes it incumbent upon the Board to consider the case pleaded under clause (b) of sub-section (2) of section 119 of the Act by an assessee who files his return beyond time. This power has to be exercised by the Board and the Board alone and not by any other authority. It is not possible to hold that this power is administrative when it relates to condonation of delay in a case where the return is filed beyond the period prescribed. The Board is required to exercise its discretion by taking into consideration all the relevant facts and circumstances and determine whether the delay in filing the return should or should not be condoned. The order must be informed by reasons. It is not an arbitrary exercise of power. This power has all the traits of judicial power. Therefore, we are of the view that the power exercisable by the Board under clause (b) of sub-section (2) of section 119 of the Act is quasi-judicial in nature." 40. The above line of reasoning is adopted while interpreting section 119(2)(b) which envisages orders by the Board "in any case or class of cases", for the purpose of avoiding genuine hardship. The term "any case or class of cases" means that the Board can exercise its powers under section 119(2)(b) in regard to any class of eases in general or in any individual case in particular. This,

however, is not so in so far as the provisions of section 119(2)(a), reproduced earlier, are concerned a plain reading whereof shows that the same envisages general or special orders by the Board in respect of "any class of incomes or class of cases". It is, therefore, doubtful whether an individual case can be brought to the notice of the Board for purposes of grant of a relief whether by way of relaxation or otherwise of any of the provisions mentioned in sub-section (2)(a) of section 119. The absence of the term "in any case" in the provisions of clause (a) appears to be significant and apparently means that powers vested in the Board under clause (a) of sub-section (2) of section 119 can be exercised only for the purposes of providing for "any class of incomes or class of cases" generally. Individual cases of hardship do not therefore fall within the purview of sub-secnion (2)(b) thereof. This does not, however, mean that individual cases of hardship cannot be brought to the notice of the Board by the assessees concerned with a view to persuade the Board to make a provision in exercise of its power under section 119(2)(a) for the benefit of such class of cases. Once the Board exercises its powers under section 119(2)(a) and defines the class of cases in which the rigours of sections 234A, 234B and 234C will apply less harshly, it will be immaterial whether one or more cases fall in any such class prescribed by the Board. There may be instances where even a single case may constitute a class by itself, while there may be others where a fairly large number of cases may fall in the specified category. The nature of the powers exercised by the Board under section 119(2)(a) appears to be more of a legislative character providing for the generality of the cases or class of incomes. In the process of exercising the said power while the Board can draw upon its own experience, information or even imagination, it may also be enlightened or persuaded by the facts of a given case, however, unique or freakish the same may appear to be. On receipt of any such information, or request from an assessee, the Board shall have to examine the same keeping in view the scheme of section 119 and the confidence which Parliament has reposed in it by delegating to it what can be said to be a certain aspect of its legislative function. The assessees' appeal to the Board for intervention under section 119(2) will be in the nature of an appeal by a citizen of this country to the law-makers exhorting them to make a provision for prevention of a hardship or inconvenience that may have been unintended or the removal of which may become necessary in a given situation. As a responsible high-power statutory body exercising a certain amount if discretion in the matter of relaxation of the rigours of the provisions mentioned in section 119(2)(a), the Board is expected to examine such requests fairly and objectively, and provide for such remedies either by way of relaxation or otherwise as may, in its wisdom, be justified in a given class of cases. When seen in this light, an individual-assessee facing hardship by reason of the provisions of sections 234A, 234B and 234C, will certainly have the opportunity of highlighting the grievance and seeking remedial steps before the Board. This appears to me to be the scheme behind section 119(2)(a) which, in my opinion, is a fairly satisfactory means of preventing hardship in the extreme cases referred to by learned counsel for the petitioners. 41. In Writ Petitions Nos. 41155 of 1993 and 1101-1103 of 1994, learned counsel appearing for the petitioners

urged an additional ground. It was argued that the clubbing of agricultural income with non-agricultural income as provided for by the Finance Acts was unconstitutional and impermissible. Reliance was placed upon entry 46, List II of the Seventh Schedule and certain judgments of the apex court in order to persuade me to hold that the clubbing of the two incomes was offensive to the scheme prescribed by the Constitution. The arguments advanced, though enlightened and educative, meant little in view of a Division Bench judgment of this court in K. V. Abdulla v. ITO [1986] 161 ITR 589 - Writ Petition No. 1462 of 1979. In the said case, the points raised before me have been answered in the following words (at page 598) : "What emerges from the above discussion is that the constitutional validity of the impugned provisions providing for aggregation of the 'agricultural income' with the 'net income' for taxing only the 'net income' under the Income-tax Act is unassailable. So long as the tax is on the net income and the agricultural income is not subjected to tax, it is always open to Parliament to legislate, while subjecting the 'net income' to tax under entry 82 in List I, to take into account the aggregate of the 'net income' and the 'agricultural income' for the purpose of determining the rate of tax to be levied on the 'net income'. By the impugned provisions in the Finance Act, Parliament has only provided for such aggregation of net income and agricultural income for taxing only the net income at a higher rate. By the impugned provisions though the rate of tax depends upon the aggregated amount, namely, the 'net income' and the 'agricultural income', what is taxed is only the net income and not the agricultural income. As held in Hoechst Pharmaceuticals Ltd.'s case , this aggregation is provided or is taken into consideration only for the purpose of identifying a class of assessees of economic superiority who are liable to pay tax at a higher rate only on their 'net income'. The impugned provisions are, therefore, within the competence of Parliament." 42. The valiant attempt made by learned counsel appearing for the petitioner to persuade me to take a different view notwithstanding, I find no reason to strike a discordant note. A Division Bench judgment is binding upon me not only by reason of the compulsions of judicial propriety and decorum but also by the considerations of maintaining the certainty of law declared by this court. Following the judgment of this court, I hold the challenge to be without any substance. 43. In the result, these petitions fail and are hereby dismissed. Interim orders issued stand vacated. The petitioners shall, however, be at liberty to urge all such grounds as may be otherwise open to them before the authorities concerned, against the levy or recovery of the interest payable under the impugned provisions of sections 234A, 234B and 234C. In the peculiar circumstances of the cases, the parties shall bear their own costs.