

Period of 30 days to be considered and not British Calendar month to calculate interest for delayed TDS payment

Summary – The Hyderabad ITAT in a recent case of Navayuga Quazigund Expressway (P.) Ltd., (the Assessee) held that For calculating interest under section 201(IA), term 'month' must be given ordinary meaning of term of 30 days period and not British calendar month

Facts

- The assessee-company had deducted tax under sections 194C and 194J but there was a delay in remitting the same to the Government account for which interest was payable by assessee under section 201(IA).
- Since only a part of said interest was paid by the assessee, the Assessing Officer passed the order treating the assessee as liable for payment of balance interest.
- On appeal, the assessee contended that the said interest was computed by the Assessing Officer by considering part of the calendar month as a full month, whereas such interest was chargeable by taking the month as a period of 30 days.
- The Commissioner (Appeals) did not find merit in the contention raised by the assessee and relying on rule 119A(b) confirmed the order of the Assessing Officer.
- On second appeal:

Held

- In the instant case, clause (ii) of section 201(1A), read with clause (b) of rule 119A is applicable and it provides that where the interest is to be calculated for every month or part of a month comprised in a period, any fraction of a month shall be deemed to be a full month, and the interest shall be so calculated. The dispute in this context as involved in the instant case is whether the month for such calculation of interest is to be taken as a British calendar month or a period of 30 days. Similar controversy had arisen in the case of *CIT v. Arvind Mills Ltd.* [\[2011\] 16 taxmann.com 291/\[2012\] 204 Taxman 38 \(Guj.\)](#), where in the Court held that a reading of sub-section (1) of section 244A, the relevant provisions of which are analogous to the provisions of clause (ii) of section 201(1A), read with rule 119A, would make it clear that the term 'month' must be given the ordinary meaning of the term of 30 days period and not the British calendar month as defined in section 3(35) of the General Clauses Act. It was held that the definition given in General Clauses Act cannot be adopted for the purposes of sub-section (1) of section 244A as such importation of the definition would lead to anomalous situation. The ratio of the decision of the Gujarat High Court in the case or *Arvind Mills Ltd.* (*supra*) is squarely applicable in the instant case. Following the decision of the Gujarat High Court in the case of *Arvind Mills Ltd.* (*supra*) the Assessing Officer is directed to recompute the

interest payable under section 201(1A) by taking a period of 30 days as a month instead of British calendar month.