

“Month” need not be a “calendar month” for levying interest under section 201(1A)

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In brief

In a recent decision¹, the Ahmedabad bench of the Income-tax Appellate Tribunal (Tribunal) held that interest under section 201(1A) shall be levied only from the date on which the tax was withheld until the date on which such tax was deposited. If only such period exceeds one month, the levy of interest for second month would get triggered.

In detail

Facts

- The taxpayer, a nationalised bank’s branch office, withheld tax under section 194A for the month of September. However, it failed to deposit the same before the time limit as provided in the Act.
- The taxes were deposited by the taxpayer along with interest for a month under section 201(1A) of the Act on 8 October. Thus the delay was by one day.
- However, the withholding tax return was processed under section 200A with interest computed, for delay in depositing tax for two months, i.e., September and October.
- The taxpayer preferred an appeal before the Commissioner – Appeals. The Commissioner while

referring to the Supreme Court’s decision in case of a criminal appeal² held that for the purpose of calculating the period of one month, the date on which the action arose was not to be excluded. The period was to be calculated from the date of withholding and not the due date.

- Consequently, the tax officer (TO) was directed to re-compute interest for one month only, as against the levying interest for two months.
- Aggrieved by the order, the taxpayer appealed before the Tribunal.

Issue before the Tribunal

Whether the period of delay in depositing tax shall be reckoned from date of withholding or due date as per the provisions of the Act.

Tribunal’s decision

- The time limit for depositing the tax withheld under section 194A read with Rule 30(2)(b) was on or before seven days from the end of the month in which tax was withheld.
- Interest shall be calculated only for the actual period of delay, i.e., from the date on which the tax was withheld until the date on which the same was deposited.
- If only such period exceeds one month, the levy of interest for second month would get triggered.

The takeaways

This decision is definitely a welcome decision in favour of taxpayers.

Merely because the period of delay is falling in two calendar months, the taxpayers should

¹ IT Appeal No. 1503 (AHD) of 2015

² M/ s Econ Antri Limited v. Ron Industries Ltd & Anr.[Criminal Appeal number 1079 of 2006]

not be punished with the levy of interest for two calendar months.

Interest for the second month has to be levied, if the period of delay exceeds one month.

This judgment reinforces the view

that 'month' as mentioned in section 201(1A) is not to be considered as 'calendar month'.

As the ruling has not considered the provisions of the General Clauses Act, one has to wait and watch whether the higher forums

are in agreement with the above view.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

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