

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E', NEW DELHI**

**Before Sh. K. N. Chary, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**(Through Video Conferencing)**

**ITA No. 363/Del/2017 : Asstt. Year : 2012-13**

Lanco Infratech Ltd., Lanco House, Plot No. 397, Udyog Vihar, Phase-3, Gurgaon-122016	Vs	ACIT, CPC-TDS, Ghaziabad
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAACL3449H</b>		

**Assessee by : None**

**Revenue by : Sh. Gaurav Pundir, Sr. DR**

<b>Date of Hearing: 08.09.2021</b>
------------------------------------

<b>Date of Pronouncement: 08.09.2021</b>
--

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT (A)-41, New Delhi dated 15.11.2016.

2. Following grounds have been raised by the assessee:

*"1. That in view of the facts and the circumstances of the case, CIT(A) has erred in upholding the demand of interest of Rs. 16,67,307/- as payable by the Assessee on alleged delayed payment of TDS made by Assessee.*

*2. That in view of the facts and the circumstances of the case, interest computed in accordance with the provision of Section 201(1)/201(1A) is illegal and bad in law.*

3. That the ACIT has wrongly and illegally passed the order while considering the date of challan as the date of deposit and not considering the date on which the amount was debited from the bank account with authorized bank. The CIT(A) has erred on facts and in law in upholding the same.

4. That the ACIT has wrongly and illegally charged interest for two months on account of alleged delay in deposit of TDS. The CIT(A) has also erred on facts and in law in upholding the same.

5. That without prejudice in view of the facts and in the circumstances of the case, CIT(A) has erred in holding that the connotation of 'every month or part thereof appearing in Section 201(1A) mean every calendar month or part thereof, ignoring that it as a 'period of one month' or part thereof.

6. That the ACIT and CIT(A) erred in law and fact in not appreciating that the expression 'month' refers to 'a month reckoned according to the British Calendar' (Emphasis supplied). 'A month as per British calendar' and 'a month reckoned as per British calendar' are not the same thing and cannot be used interchangeably. While the former refers to a calendar month by itself, the later refers to a period of time which qualified to be treated as a 'month'.

7. That the interest u/s 220(2) is illegally and wrongly charged and also wrongly worked out.

8. That without prejudice there is no delay in payment as the amount was paid in time and the processing done by the recovery bank on the next date cannot be treated as delay by the appellant.

9. That on the facts and in the circumstances of the case, the order passed by the CIT(A) is incorrect and perverse as same is not based on correct facts and also not based on correct legal position."

3. The assessee is a company engaged in the business of EPC and construction infrastructure development and power generation.

4. Order u/s 153 has been issued by the CPC (TDS) charging interest on late payment of the TDS u/s 201(1A). The Id. CIT(A) confirmed the order of the CPC.

5. The relevant undisputed facts of the case are that the assessee deposited cheque on 30.04.2012 which has been cleared and the amount has been debited on 30.04.2012 itself from the account of the assessee whereas the challan generated by the bank reflected date of deposit as on 01.05.2012 which spinned off the charging of interest by the CPC. The assessee has produced certificate from the Indian Overseas Bank, Secunderabad Branch confirming that the assessee has deposited the amounts through Internet Banking facility (IBF) of the bank on 30.04.2012 and amounts have been debited on the same date. It was a technical error on the part of the bank to reflect the amount on 01.05.2012 instead of 30.04.2012 for which we hold that the assessee cannot be held to be responsible. We are also guided by the circular of CBDT No. 1197 with regard to the Section 211, advance tax where in in case of bank holiday , the amounts were allowed to be paid on the next day of the due date without interest. In the instant case, the matter pertaining to Section 201, the assessee has

rightly deposited the TDS amount on 30.04.2012. Hence, we hold that the assessee is not liable to pay any interest u/s 201(1A).

6. In the result, the appeal of the assessee is allowed.  
Order Pronounced in the Open Court on 08/09/2021.

Sd/-

**(K. N. Chary)**  
**Judicial Member**

**Dated: 08/09/2021**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**

		Date	<u>Initial</u>	
1.	Draft punched on computer	09.09.2021		PS
2.	Draft placed before author	09.09.2021		PS
3.	Draft proposed & placed before the second member			JM/AM