

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "C", BANGALORE**

Before Shri George George K, JM & Ms.Padmavathy S, AM

ITA No.440/Bang/2012 : Asst.Year 2006-2007

M/s.ABB Limited 49, Khanija Bhavan, Race Course Road, 2 nd Floor, East Wing Bangalore - 560 001. PAN : AAACA3834B.	v.	The Additional Commissioner of Income-tax, LTU Bangalore.
(Appellant)		(Respondent)

Appellant by : Ms.Vasanti Patel, Advocate
Respondent by : Sri.Pradeep Kumar, CIT-DR

Date of Hearing : 08.03.2022	Date of Pronouncement : 08.03.2022
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ORDER

Per George George K, JM :

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 31.01.2012. The relevant assessment year is 2006-2007.

2. Two grounds are raised in the memorandum of appeal. The assessee has also filed two additional grounds. During the course of hearing, the learned AR did not press both the grounds in the memorandum of appeal and the first ground in the additional ground. The surviving ground, namely, ground 2 in the additional grounds of appeal reads as follow:-

"2. Without prejudice to Ground No.1 and 2 of the grounds of appeal filed before your Honours dated March 28, 2012, the Assessing Officer has erred in calculating interest u/s 234C of the Income Tax Act, 1961."

3. The above ground is regarding calculation of interest u/s 234C of the I.T.Act. The adjudication of the same does not require examination of new facts, hence, ground 2 is admitted and we proceeded to dispose of the same on merits. The learned AR submitted that for the 1st quarter, namely, 15.06.2005, interest at the rate of 1% for three months is computed by the A.O. without considering the fact that the assessee has paid 12% of the tax payable. For the first quarter, i.e., 15.06.2005 thereby complying with provisions of section 234C (refer provisions to section 234C(1)(a) of the I.T.Act). Therefore, it was prayed that the matter may be remanded to the A.O. to recalculate interest levied u/s 234C of the I.T.Act.

4. The learned Departmental Representative was duly heard.

5. We have heard rival submissions and perused the material on record. The learned AR has given a table, wherein it is claimed that excess payment of advance tax for the 1st and the last quarter has been ignored while calculating interest u/s 234C of the I.T.Act. The table submitted by the learned AR is reproduced below :-

Total advance tax required to be paid 1,114,661.211 (tax on returned income less TDS)

	15/12%	45/36%	75/75%	100/100%	
Interest u/s 234C	By 15 th June, 05	By 15 th Sept. 05	By 15 th Dec. 05	By 15 th March 06	
Amount of advance tax required to be paid as per returned	167,199,182	501,597,645	835,995,908	1,114,661,211	

income					
Minimum amount of advance tax required to be paid as per returned income.	133,759,345	401,278,036	635,995,908	1,114,661,211	
Amount of advance tax paid	135,000,000	391,000,000	759,000,000	1,119,000,000	
Shortfall	(1,240,655)	110,597,545	76,995,908	(4,338,789)	
Interest @ 1% PM for 3 months	(37,220)	3,317,926	2,309,877	(43,3880)	56,27,804

(figures in bracket being negative is ignored)

5.1 The A.O. is directed to examine the correctness of the claim of the assessee as regards the calculation of interest u/s 234C of the I.T.Act and grant relief in accordance with law. Accordingly, ground 2 in additional ground is restored to the A.O.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on this 08th day of March, 2022.

Sd/-
(Padmavathy S)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 08th March, 2022.

Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A) LTU, Bangalore.
4. The CIT, LTU, Bangalore.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore