

SC order- no penalty u/s 271C on belated TDS payment where only interest is charged u/s 201(1A)

An important SC ruling

US Technology International Pvt Ltd Vs Commissioner of Income-tax (Supreme Court)

Date-10th April 2023

Civil Appeal No. 7934 of 2011

Sub- Whether penalty can be levied u/s 271C for mere delayed payment of TDS when interest is discharged u/s 201(1A)?

The Supreme Court in this case was considering whether the appellant was liable for penalty u/s 271C even though there was mere delay in payment as the provisions of Section 271C dealt with penalty for failure to deduct the tax and not delayed payment of tax.

The court accepting the arguments of the Appellant's AR that the penal provisions are to be construed strictly and have to be read as they are.

The court also noted that the consequences of non payment/belated remittances/payment of the TDS are specially provided in Section 201(1A) of the Act. It was also noted that prosecution is provided in case of failure to pay the tds u/s 276B.

Finally taking note of CBDT Circular NO 551 dated 23-1-1998, the court allowed the SLP by holding that in case where there was only delayed payment of tax, there was no question of levy of any penalty.

It is specifically observed and held that on mere belated remitting the TDS after deducting the same by the concerned person/assessee, no penalty shall be leviable under Section 271C of the Income Tax Act.

On true interpretation of Section 271C, there shall not be any penalty leviable under Section 271C on mere delay in remittance of the TDS after deducting the same by the concerned assessee.

As observed hereinabove, the consequences on non- payment/belated remittance of the TDS would be under Section 201(1A) and Section 276B of the Act, 1961.

This judgement is a welcome judgement in relation to TDS.

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