

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.-6545/Del/2016, A.Y. 2010-11**

M/s. Siomond Pharmaceuticals (P.) Ltd. 880/804B, Main Market, 3 <sup>rd</sup> Floor, Rani Bagh New Delhi PAN : AAICS0568A	Vs.	JCIT Range-77 New Delhi
<b>Appellant</b>		<b>Respondent</b>

Assessee by : None  
Revenue by : Sh. Saras Kumar, Sr. DR

**ORDER**

**PER ANADEE NATH MISSHRA, A.M.:**

(A) This appeal has been filed by the Assessee against the impugned appellate order dated 08.09.2016 passed by Learned Commissioner of Income Tax (Appeals)-41, New Delhi [in short, "Ld. CIT(A)"] pertaining to Assessment Year 2010-11.

(B) All the grounds of appeal are related to penalty, imposed vide order dated 17.07.2015 by the Assessing Officer, amounting to Rs. 6,96,986/- under section 276C of I.T.Act for failure of the assessee to deduct tax at source at

the time of payment of EMI to NBFC. Vide impugned appellate order dated 08/09/2016, Ld. CIT(A) confirmed the aforesaid penalty, holding as under :

*“4.1 I have carefully considered the submission of the appellant and I have also gone through the order u/s 271C of the Act dated 17.07.2015 passed by the Joint Commissioner of Income Tax.*

*4.2 The appellant has claimed that it was under bonafide relief that no tax was deductable out of payment of interest to Non-Banking Financial Institutions and hence it did not deduct tax on such payments. It has been claimed that this belief was a reasonable cause of the delay and hence penalty u/s 271C should not have been imposed.*

*4.3 The appellant has relied on various decisions in support of his claim that penalty need not be imposed in each and every case and facts and circumstances of the case need to be taken into consideration and only those who do not have good and sufficient reason for not deducting tax will be liable to imposition of penalty.*

*4.4 While I am in full agreement that penalty u/s 271C may not be imposed where there is a reasonable cause, in my considered view the case of the appellant cannot be taken as a reasonable cause for failure to deduct tax. The appellant has failed to prove that it was under bonafide belief that tax was not deductible on the payments of interest to NBFCs. The decision of IT AT Chandigarh relied upon by the appellant relates to an individual, while the appellant is a company. Ignorance of law cannot be taken as an excuse for reasonable cause.*

*4.5 The decision in the case of M/s Sahara India Financial Corporation I id relied upon by the appellant has different facts. I he Hon'ble FI AT, Delhi, in Para 36*

*of the order have observed that the assessee Sahara India Financial Corpn. Ltd. had transferred amount to interest payable account, though there was no liability to transfer this amount to such account. Non-deduction of tax at the time of such transfer was held by ITAT to be a minor default and it was considered a reasonable cause. On the other hand, in the case of appellant, tax was deductible on the amount of interest paid/payable to NBFCs.*

*4.6 The appellant has also relied on the decision in the case of M/s. Cadbury India Ltd. The JCIT in his penalty order has clearly distinguished the facts of the case. In Cadbury India Ltd. the assessee had claimed that the default had been committed on the basis of misconceived professional advice given by CAs, which was held by the Court as reasonable cause.*

*5. In the facts and circumstances of the case, there exists no reasonable cause. In the result, the appeal filed by the appellant is dismissed and the penalty imposed by the JCIT is confirmed. The AO is directed to take consequential action at the time of giving effect to this order accordingly.”*

(C) At the time of hearing, Revenue was represented by Shri Saras Kumar, Learned Senior Departmental Representative (“Ld. Sr. DR”, for short). However, none was present from the assessee’s side. In the absence of any representation from assessee’s side, at the time of hearing before us, we heard the Ld. Sr. DR; who relied upon aforesaid impugned appellate order dated 08/09/2016 of the Ld. CIT(A). After perusal of the materials on record; we find that the Ld. CIT(A) has passed speaking order, relevant portions of which have already been reproduced in earlier part of this order. We find that the Ld. CIT(A) has given detailed reasons for her decision on merits in the aforesaid impugned appellate order dated 08/09/2016. During appellate proceedings in Income Tax Appellate Tribunal (“ITAT”, for short) no material has been brought for our consideration to persuade us to take a view different from the view taken by the Ld. CIT(A) in the impugned appellate order dated 08/09/2016. After hearing the Ld. Sr. DR, and after perusal of materials on record, and further, in view of the foregoing discussion, we decline to interfere with the aforesaid impugned appellate order dated 08/09/2016 of Ld. CIT(A), and accordingly, this appeal is dismissed.

(D) Before we part; we explicitly clarify that the assessee will be at liberty to approach ITAT for restoration of the appeal in accordance with Proviso to Rule 24 of Income Tax (Appellate Tribunal), Rules, 1963. If the assessee does approach ITAT for restoration of the appeals in ITAT, the matter will be considered in accordance with law having regard to the facts and circumstances.

(E) In the result, appeal filed by assessee is dismissed.  
Order pronounced in the open court on 28/02/2020.

**Sd/-**

**(AMIT SHUKLA)  
JUDICIAL MEMBER**

**Sd/-**

**(ANADEE NATH MISSHRA)  
ACCOUNTANT MEMBER**

Dated: 28/02/2020  
\*BR\*

Copy forwarded to:

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

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ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	25.02.2020
Date on which the typed draft is placed before the dictating Member	25.02.2020
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	

Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	