

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'C' : NEW DELHI)**

**(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER**

**And**

**SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.4942/Del./2016**

**ASSESSMENT YEAR : 2014-15**

M/s. Integlobe Aviation Ltd.  
Tower D, 4<sup>th</sup> Floor,  
Global Business Park, DLF,  
Phase 3, MG Road  
Gurgaon  
(PAN : AABC12726B)

Vs. Income Tax Officer,  
CPC- Circle-74(1),  
Laxmi Nagar  
New Delhi

(APPELLIANT)

(RESPONDENT)

**ASSESSEE BY : Sh. Nages Kr. Behl, Adv.  
REVENUE BY : Ms. Anima Barnwal, Sr. DR**

**Date of Hearing : 16.08.2021**

**Date of Order : 26.08.2021**

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

Appellant, M/s. Integlobe Aviation Ltd., (hereinafter referred to as 'the assessee') by filing the present appeal sought to set aside the impugned order dated 30.06.2016 passed by the Commissioner of Income-tax (Appeals)-41, New Delhi qua the assessment year 2014-15 on the grounds inter alia that :

““ 1. That on facts of the appellant’s case and in law, the order passed by Commissioner (Appeals) [“CIT A”] is bad, erroneous and contrary to the law in holding the appellant as “assessee-in-default”.

2. That order of the CIT A is contrary to the law and the facts of the case as CITA erred in pronouncing decision (*vide para 4.6.3 of CIT A’s order*) on the basis of “practice followed by the department” and “presumption”, and not in accordance with the provisions of the Income Tax Act, 1961( Act)

3. That CIT A erred on facts and in law in not holding the intimation issued under section 200A of the Act void and liable to be quashed.

4. That CIT A erred in holding that appellant is liable for payment of interest under section 201(1 A) of the Act.

5. The appellant craves leave to add to or amend the aforesaid grounds before disposal of the appeal.”

2. By way of intimation u/s 200A of the Act a demand of Rs. 64,08,780.19/- has been raised due to short deduction of TDS by the assessee in respect of payments made to a various parties in quarter ended March, 2014. The balance demand of Rs. 9,23,969/- is the interest thereon as per section 201(1A). Detail of demand on the account of alleged short deduction of tax at source by the assessee is as under :-

<i>Name of the Party</i>	<i>Amount of TDS Demand (Rs.)</i>
<b>SATKAR TRAVELS PVT. LTD.</b> ( <i>pan: AAOCS4577K</i> )	<b>689.00</b>
<b>TRAVEL (CO) INDIA</b> ( <i>PAN : AAIPG5059M</i> )	<b>11,11,653.48</b>
<b>THE FEDERAL TRAVELS AND TOURS PRIVATE LIMITED</b> ( <i>PAN : AADCT9952C</i> )	<b>18,701.61</b>
<b>AIR INDIA LTD</b> ( <i>PAN : AACCN6194P</i> )	<b>2,282.12</b>
<b>GMR HYDERABAD INTERNATIONAL</b> ( <i>PAN : AABCH3448M</i> )	<b>52,75,189.39</b>
<b>VARUN TRAVELS PVT. LTD.</b>	<b>264.59</b>

<i>(PAN : AAACV6976H)</i>	
<i>Total</i>	<i>64,08,780.19</i>

3. Assessee claimed that short deduction in case of *M/s. Federal Travel and Tour Pvt. Ltd. and M/s. GMR Hyderabad International*, the lower TDS certificates issued to the deductees were originally valid, but the same were cancelled thereafter, without information to the deductor, which has resulted in the deduction of tax at lower rate, under bonafide belief. It is submission of the assessee that tax authorities have not sent the lower TDS certificates directly to the deductor, as required by the law nor any intimation has been given on cancellation of the lower TDS certificate.

4. Assessee carried the matter before Ld. CIT(A) by way of filing the appeal who has partly confirmed the demand by partly allowing the appeal. Feeling aggrieved assessee has come up before the Tribunal by way of filing the present appeal.

5. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

6. Undisputedly a demand of Rs. 73,32,750/- (Rs. 64,08,780/-

on account of short deduction of tax + Rs. 9,23,969/- on account of interest) u/s 201(1A) has been raised against the assessee. It is also not in dispute that tax authorities has originally issued lower TDS certificate in case of *M/s. Federal Travels and Tour Pvt. Ltd. and M/s. GMR Hyderabad International* to the deductees not deductors. It is also not in dispute that lower TDS certificate issued to the deductees was cancelled by the revenue authorities without any intimation to the deductors and consequently deductor continue to deduct tax on lower rate under bonafide belief.

7. In the backdrop of the aforesaid facts and circumstances of the case, we are of the considered view that when tax authorities have never given intimation as to the short deduction of tax to the assessee rather sent the same to the deductee and the assessee continued to deduct the tax at the lower rate, it is a bonafide belief on the part of assessee.

8. Moreover the lower TDS certificate issued to the deductees which was originally valid, but same were cancelled without any intimation to the deductor. So, the entire exercise of short deduction of tax by the assessee is under bonafide belief. This fact is proved from para 4.6.3 of the impugned order passed by the Ld. CIT(A) which is extracted as under :-

***“4.6.3 I agree with the contention of the appellant that information regarding lower TDS certificates should be conveyed to the deductor and any cancellation or modification should be communicated by the department to the deductor. At the same time, it cannot be ignored that as a practice lower TDS certificates are issued to the deductee, as the deductee, being the interested party, makes application for issue of such certificate. It is presumed that any modification or cancellation of such certificate will be intimated by the department to the deductee. It is the duty of the deductee/ payee to inform the deductor regarding any change in the limit or validity of the LTDC issued by the department.”***

9. Assessee to prove his bonafide brought on record Form 26A from two deductors namely *M/s. Federal Travels and Tour Pvt. Ltd. and M/s. GMR Hyderabad International*. Though the Ld. CIT(A) has given part relief to the assessee by not treating him “assessee-in-default” under first proviso to Section 201(1A) of the Act but he has directed to charge the interest from the date the tax was deductible till the date of filing of Income Tax Returns by the deductees under proviso to Section 201(1A).

10. We are of the considered view that when the assessee has not been considered “assessee-in-default” by Ld. CIT(A) as he has attributed short deduction of tax due to bonafide belief that a valid TDS certificate to the deductees has already been issued, which was cancelled without any intimation to the assessee, no interest can be levied. So when the cancellation of the TDS certificate has never been intimated to the assessee, assessee is treated to have

complied with the provisions contained under Act for deduction of tax at source.

11. Identical issues have been decided by the co-ordinate bench of Tribunal in favour of assessee in its own case in respect of Quarter Nos. 2 & 3 of Assessment year 2013-14 in appeal bearing ITA Nos. 2954 & 2955/Del/2015 vide order dated 7-9-2018.

12. So, in view of what has been discussed above in the preceding paras and following order dated 7-9-2018 (supra) passed by co-ordinate bench of Tribunal. We are of the considered view that Ld. CIT(A) has erred in directing the AO to charge the interest from the date the tax was deductible till the date of filing the Income Tax Return by the deductor on the amount of short fall in tax deductible under proviso to section 201(1A) of the Act. So, the demand raised on account of interest vide order passed by Ld. CIT(A) is not sustainable as the assessee is not liable to pay the interest on the amount of short fall in tax deducted at source, hence deleted. Consequently, appeal filed by the assessee is allowed.

**Order pronounced in open court on this 26<sup>th</sup> day of August, 2021.**

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Dated the 26<sup>th</sup> day of August, 2021  
\*Binita\*

**Sd/-**

**(KULDIP SINGH)  
JUDICIAL MEMBER**