

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI**

**BEFORE DR. BRR Kumar, ACCOUNTANT MEMBER
AND
SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No. 7251/DEL/2017
[Assessment Year: 2013-14]**

M/s Inder Travels Pvt. Ltd., 886/2, East Park Road, Karol Bagh, New Delhi-110005 PAN- AAACI0662F	<u>Vs</u>	ACIT Circle 12(1), New Delhi.
APPELLANT		RESPONDENT
Assessee represented by		None
Department represented by		Ms. Beenu, Sr. DR
Date of hearing		24.02.2023
Date of pronouncement		28.02.2023

ORDER

PER N.K. CHOUDHRY, JM:

The instant appeal has been preferred by the Assessee against the order dated 19.09.2017 impugned herein, passed by the Ld. Commissioner of Income tax (Appeals)-22, New Delhi, (in short "Ld. Commissioner") u/s 250 of the Income Tax Act, 1961 (in short "the Act"), pertaining to the assessment year 2013-14.

2. The Assessee declared its income to the tune of Rs. 95,07,290/- by filing return of income on 30.09.2013, which was selected for scrutiny and resulted into making the addition of Rs. 6,43,875/- u/s 40(a)(ia) of the Act, on account of non- deduction of TDS on the amount of interest paid to M/s Bajaj Finance. Penalty proceedings have also been initiated u/s 271(1)(C) of the Act for furnishing inaccurate particulars of income and the AO ultimately levied the penalty u/s 271(1)(c) of the Act for the aforesaid limb, to the tune of Rs. 2,08,900/- on the income of Rs. 6,43,875/- sought to be evaded.

3. The Assessee being aggrieved, challenged the imposition of penalty before the learned Commissioner and in appellate proceedings though accepted the addition made by the AO by not challenging the addition on the basis of which the penalty was levied, however claimed that the Assessee was under bona fide belief that the payment of interest to NBFC did not attract any deduction at source and the said belief was on the basis that the Auditor did not make any disallowance u/s 40(a)(ia) of the Act in the tax audit report. The Assessee also relied upon the judgment passed by the Hon'ble Coordinate Bench in the case of New Horizon India Ltd. Vs. DCIT [2011] 012 ITR (Trib) 0332 ITAT (Del.). The learned Commissioner though considered the explanation submitted and the judgment referred to by the Assessee, however, by relying upon the judgment passed by the Hon'ble High Court in the case of CIT Vs. NG Technologies Ltd., affirmed the penalty by dismissing the appeal of the Assessee.

3.1 Though the Assessee has preferred the instant appeal, however, on most of the occasions including today, did not appear, inspite of sending notices. Hence, we are constrained to decide the appeal as ex-parte. The Assessee has failed to controvert the findings of the learned Commissioner in affirming the penalty by taking refuge of the judgment passed in CIT Vs. NG Technologies Ltd. (supra) wherein it was held:

*“... an Assessee would normally rely upon legal opinion of a Chartered Accountant, who was required to audit accounts of the company and also submit an audit report, **but penalty cannot be deleted on guise or pretence of legal opinion a a smokescreen and façade.** The claim or the entry in the present case was contrary to elementary and well-known basic principles of accountancy. The present case was not a case of a debatable issue relating to legal or accountancy principle which could have been interpreted differently”.*

Even otherwise we do not find any reason and/or material to controvert the finding of the learned Commissioner, consequently are inclined, not to interfere in the decision of the learned Commissioner.

4. In the result, appeal filed by the Assessee is dismissed.

Order pronounced in open court on 28.02.2023.

**Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI