

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

**BEFORE,
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.528/Del/2023
(ASSESSMENT YEAR 2017-18)**

T.C. Healthcare Pvt. Ltd. C/o Kashyap & Co. 114/214, Citi Centre Begum Bridge Road Meerut-250 001 (U.P.) PAN-AACT 3701G (Appellant)	Vs.	ACIT Circle-25(1) Delhi (Respondent)
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Appellant by	Sh. P.S. Kashyap, FCA
Respondent by	Mr. Amit Katoch, Sr. DR

Date of Hearing	02/08/2023
Date of Pronouncement	29/08/2023

ORDER

PER M. BALAGANESH AM:

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.CIT(A), Delhi-9/10682/2019-20 against the order

passed by ACIT, Circle-25(1), Delhi (hereinafter referred to as the 'Ld. AO') u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 25/12/2019.

2. The only issue to be decided in this appeal is as to whether the interest u/s 234C of the Act could be charged before allowing MAT Credit u/s 115JAA of the Act or not .

3. We have heard the rival submissions and perused the materials available on record. The assessee company is engaged in the business of manufacturing of pharma products and had filed its return of income for the Asst Year 2017-18 on 25.10.2017 declaring total income of Rs 1,22,39,130/-. The assessment was completed u/s 143(3) of the Act on 25.12.2019 accepting the returned income. However, a demand of Rs.4,11,660/- was raised thereon. In the tax computation sheet forming part of the assessment order, the ld. AO had charged interest u/s 234C of the Act for Rs 5,65,652/-. This was charged by considering the assessed tax before allowing MAT Credit u/s 115JAA of the Act. The assessee carried this issue before the ld. CIT(A) but could not succeed. Hence, it is in appeal before us.

4. As per section 234C of the Act, interest is charged on the shortfall in payment of 'tax due on the returned income'. The expression 'tax due on the returned income' is defined in Explanation to Section 234C of the Act wherein it has been clearly stated that – 'tax due on the returned income' means the tax chargeable on the total income declared in the return of income furnished by the assessee, as reduced by the amount of –

(i) Tax deducted / collected at source;

(ia) any relief of tax allowed u/s 89 ;

(ii) any relief of tax allowed u/s 90 on account of tax paid outside India;

(iii) any relief of tax allowed u/s 90A on account of tax paid in a specified territory outside India referred to in that section ;

(iv) any deduction from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

(v) any tax credit allowed to be set off in accordance with the provisions of section 115JAA or section 115JD.

5. Hence it could be safely concluded that the action of the lower authorities is in complete contravention of the aforesaid provisions of the Act and hence is to be declared as bad in law. Hence we direct the ld. AO to compute the interest chargeable , if any, u/s 234C of the Act, after

reducing MAT credit u/s 115JAA of the Act. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 29th August, 2023.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:29/08/2023

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI