

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

**BEFORE SHRI SHAMIM, ACCOUNTANT MEMBER
ITA No:- 2334/Del/2023
(Assessment Year: 2016-17)**

Kartikay Nayyar, Punjabi Bagh.	Vs.	DCIT, New Delhi.
APPELLANT		RESPONDENT
PAN No: ALXPN4900G		

Assessee By : Shri Anil Jain, CA
Revenue By : Shri Om Parkash, Sr. DR

Date of Hearing : 08.01.2024
Date of Pronouncement : 16.01.2024

ORDER

PER SHAMIM YAHYA, A.M.

This appeal by the Assessee is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)-27, New Delhi, dated 18.07.2023 and pertains to Assessment Year 2016-17. The issue raised in this appeal is that the Ld. CIT(A) erred in sustaining the penalty of Rs. 1,54,500/- u/s 271(1)(c) of the Act.

2. Brief facts of the case are that the AO found foreign travels of assessee. On the ground that the assessee has not cooperated and given full details, the AO made an addition of Rs. 34,66,750/- on account of estimated expenditure incurred on foreign travelling. In the appellate proceedings, the same was reduced and finally in the order

of ITAT, the addition was restricted to Rs. 5,00,000/-. On this amount penalty was levied sustained by the CIT(A).

3. Against the above order, the assessee is in appeal before ITAT.

4. I have heard both the sides and perused the records.

5. I find that addition in this case is purely based upon an estimate. In my considered opinion, given the facts and circumstances of this case, the assessee cannot be held guilty of concealment or furnishing in particulars of income. Moreover, the assessee's conduct is not contumacious to warrant the levy of penalty. Accordingly I delete the penalty.

6. In the result, appeal filed by the assessee is allowed.

Order Pronounced in the Open Court on 16 .01.2024

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated: 16/01/2024
(Pooja)

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	12.01.24
Date on which the typed draft is placed before the dictating Member	
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	