

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.603/Del/2025
Assessment Year: 2017-18

Barque Hotels Pvt. Ltd., Caspia Hotels Delhi, Opp. Galaxy Toyota, Outer Ring Rd., Haiderpur, District Centre Crossing, Shalimar Bagh, Delhi	Vs.	JCIT, Delhi
PAN: AADCB4211A		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. Rajesh Kumar Dhanesta, Sr. DR

Date of hearing	11.08.2025
Date of pronouncement	11.08.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2017-18, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1070094162(1), dated 04.11.2024 involving proceedings under section 271C of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Case called twice. None appears at the assessee's behest. It is accordingly proceeded ex-parte.

2. It transpires during the course of hearing with the able assistance coming from Revenue side that both the learned lower authorities have levied section 271C penalty amounting to Rs. 10,04,652/- thereby alleging the assessee to have failed in deducting TDS under Chapter XVII-B of the Act applicable on various payments made to other parties under section 194C as well as section 194J of the Act totalling to Rs.1,21,93,020/- in question. Mr. Dhanesta, learned departmental representative supports the impugned penalty that the same deserves to be upheld on account of the assessee's failure in not having deducted TDS on the above said twin categories of payments.

3. We have given our thoughtful consideration to the assessee's pleadings all along and the Revenue's foregoing vehement contentions. It is evident that the learned Assessing Officer has framed his section 143(3) assessment on 26.12.2019 in the assessee's case nowhere making any such quantum disallowance under section 40(a)(ia) of the Act on account of assessee's failure in not deducting TDS hereinabove. This is indeed coupled with the

fact that there is not even an independent discussion in the learned Assessing Officer's penalty dated 25.06.2019 as to whether the above TDS provisions are applicable at all in the assessee's case. Faced with this situation, Mr. Dhanesta vehemently argues that the same has been levied based on the assessee's corresponding disclosure in its tax audit report only.

4. We find no reason to express our concurrence with the Revenue's foregoing vehement submissions. This is for the precise reason that not only the Assessing Officer's assessment as well as penalty orders are silent in determining the assessee's liability to deduct TDS on the aforesaid payments but also of the Revenue's endeavour to pick up some straws from the assessee's tax audit report which deserves to be accepted as it could not be treated as the conclusive proof either to valuer in deducting TDS or applicability of TDS provision; as the case may be, in the relevant facts before us. We thus treat the assessee's valuer in not deducting the TDS on the above twin payments as having a reasonable cause therein within the meaning of section 270(3) of the Act to delete the impugned penalty in very terms. Ordered accordingly.

5. This assessee's appeal is allowed.

Order pronounced in the open court on 11th August, 2025

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 9th September, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi