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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 777/2023 & CM APPL. 65410/2023 (74 Days Delay)

PRINCIPAL COMMISIONER OF INCOME TAX 7 ..... Appellant

Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary & Mr. Naveen Rohila, Advs.

versus

UNITECH ACACIA PROJECTS PVT. LTD ..... Respondent

Through: None

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **15.03.2024**

1. This appeal is directed against the order of the Income Tax Appellate Tribunal ["**ITAT**"] dated 29 March 2023 and which has in turn upheld the order of the Commissioner of Income Tax (Appeals) ["**CIT(A)**"] deleting penalties which had come to be imposed upon the assessee under Section 271(1)(c) of the Income Tax Act, 1961 ["**Act**"].

2. The ITAT upon noticing the rival submissions addressed has observed as follows:

> "**7**. We have heard the learned DR and perused the material available on record. In the present appeal the grounds raised by Revenue is with respect to the deletion of penalty levied for furnishing of inaccurate particulars of income. We find that CIT(A) while deleting the penalty has noted that non-deduction of tax was neither an act of furnishing of inaccurate particulars of income nor concealment of income but rather it was a technical and venial breach in nature. As far as the levy of penalty on interest on late payment of TDS is concerned, while deleting the

> penalty CIT(A) has given a finding that interest expense on TDS is a debatable issue and assessee had established its bonafide for the purpose of claiming deduction of expenditure on interest on delayed deposit of TDS. He relying on the decisions cited in his order held that penalty cannot not be levied on a debatable issue. Before us, Revenue has not pointed out any fallacy in the findings of CIT(A). In such a situation, we find no reason to interfere with the order of CIT(A). **Thus the ground of Revenue dismissed**."

3. It becomes pertinent to note that in the facts of the present case the disallowances came to be made by virtue of Section 40(a)(ia) of the Act in the course of assessment. Although there was thus no justification to invoke Section 271(1)(c) of the Act, the appellant do not appear to have in the alternative rested their case for imposition of a penalty referable to Section 271C of the Act.

4. In that view of the matter, we find no justification to interfere with the order impugned. No substantial question of law arises. The appeal fails and shall stand dismissed along with pending application.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MARCH 15, 2024/kk