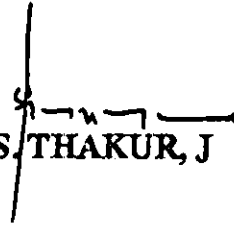





Sl. No.	Date	Orders
		<p>* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ ITA 178/2006</p> <p>DIRECTOR OF INCOME TAX INTERNA ..... Appellant Through: Mr.Sanjeev Sabharwal, Adv.</p> <p>versus</p> <p>M/S HNS INDIA VSAT INC. .... Respondent Through: Mr.Ajay Vohra with Ms.Kavita Jha, Adv.</p> <p><b>CORAM:</b> <b>HON'BLE MR. JUSTICE T.S. THAKUR</b> <b>HON'BLE MR. JUSTICE B.N.CHATURVEDI</b></p> <p style="text-align: center;"><b><u>ORDER</u></b> 08.02.2006</p> <p>%</p> <p>The Income Tax Appellate Tribunal has while deleting the penalty levied upon the respondent-assessee given a two-fold reason. In the first place it has relying upon the decision of this Court in <u>CIT Vs. Ram Commercial Enterprises Ltd. (246 ITR 568)</u> held that since the Assessing Officer had not recorded his satisfaction regarding the concealment of income for furnishing inaccurate particulars in the assessment order to initiate penalty proceedings any such proceedings were legally untenable. Alternatively, the Tribunal has examined the merits of the contentions urged on either side and come to the conclusion that the explanation offered by the assessee had not been found to be false by the Assessing Officer while disallowing the claim of expenditure incurred by the assessee. The Tribunal has further held that it was a case where the assessee was unable to substantiate the explanation offered by him which</p>



Sr. No.	Date	Orders
		<p>did not call for any penalty under Section 271(1)(c) of the Act. The Tribunal</p> <p>has in this regard observed:</p> <p>“It is also observed that the assessee has a good case to succeed on merits as well in the present appeal challenging the levy of penalty u/s 271(1)(c) inasmuch as out of the two additions in respect of which penalty was imposed by the Assessing Officer, one addition by way of disallowance of traveling expenses amounting to Rs.22,90,926/- was made by the Assessing Officer and confirmed in the appeals mainly on the ground that documentary evidence in the form of copy of agreement with the sub-contractors. It was thus a case of non-acceptance of explanation offered by the assessee and there was nothing brought on record by the Assessing Officer either during the course of assessment proceedings or even during the course of penalty proceedings to show that the explanation so offered by the assessee on this issue was false. On the other hand, the case of the assessee on this issue was that the traveling expenses of sub-contractors were borne by it as per the terms and conditions agreed with the sub-contractors which shows that its claim for deduction of the said expenses against its business income was bonafide.”</p> <p>In the light of the finding recorded by the Tribunal that the explanation offered by the assessee was not false and that the deduction was claimed bonafide, no substantial question of law arises for our consideration in this appeal which fails and is hereby dismissed.</p> <p style="text-align: right;"> T.S. THAKUR, J</p> <p style="text-align: right;"> B.N. CHATURVEDI, J</p> <p>FEBRUARY 08, 2006 ga</p>