

(2002) 08 DEL CK 0165

Delhi High Court

Case No: IT Appeal 46 of 2002

Commissioner of Income Tax

APPELLANT

Vs

Inchcape India (P) Ltd.

RESPONDENT

Date of Decision: Aug. 20, 2002**Acts Referred:**

- Income Tax Act, 1961 - Section 234B, 260A

Citation: (2003) 179 CTR 212**Hon'ble Judges:** Sharda Aggarwal, J; D.K. Jain, J**Bench:** Division Bench**Advocate:** R.D. Jolly, for the Appellant; P.V. Kapur and Anuradha Dutt, for the Respondent**Final Decision:** Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. This appeal u/s 260A of the IT Act, 1961 (for short the Act), is directed against the order dt. 28th May, 2001, passed by the Income Tax Appellate Tribunal, Delhi Bench "A", Delhi (for short the "Tribunal"), in ITA No. 4015/Del/99, pertaining to the asst. yr. 1996-97.

By the impugned order the Tribunal has deleted the interest levied u/s 234B of the Act, on the ground that before levying the said interest, there was no application of mind on the part of the AO, inasmuch as, while completing assessment he had not made any order for charging the interest. While holding so, the Tribunal has relied on the judgments of the Patna High Court in [Ranchi Club Ltd. Vs. Commissioner of Income Tax and Others](#) and [Uday Mistanna Bhandar and Complex, Tej Kumari Devi and Ranchi Club Ltd. Vs. Commissioner of Income Tax and Others](#), wherein it was held that notice of demand claiming interest can be issued only when there is order in the assessment order levying interest.

2. In view of the fact that both the said decisions have since been affirmed by the Supreme Court in [Commissioner of Income Tax and Others Vs. Ranchi Club Ltd.](#), no substantial question of law survives for our consideration. Admittedly in the present case there was no order for charging of interest u/s 234B of the Act in the assessment order.

It may also be noted that a Full Bench of the Patna High Court in Smt Tej Kumari and Ors. v. CIT (2001) 247 HR 210 (Pat)(FB), relying on decisions of the apex Court in Ranchi Club (supra) has reiterated the aforesaid view expressed in Uday Mistanna Bhandar case (supra). It has been held that in the absence of any specific order of the assessing authority, interest could not be charged and recovered from the assessed.

The appeal is accordingly dismissed.