

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA (SMC) BENCH: AGRA**

BEFORE SHRI A. D. JAIN, JUDICIAL MEMBER

**I.T.A No. 56/Agra/2016
(ASSESSMENT YEAR-2009-10)**

Mr. Madan Mohan Mishra 32/8, Civil Lines, Mathura. PAN No.BCVPM2872E (Assessee)		ITO, -Ward 3 (2), Mathura. (Revenue)
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Assessee by	Shri Utsav Sahgal, AR
Revenue by	Shri Waseem Arshad, Sr.DR.

Date of Hearing	12.12.2017
Date of Pronouncement	21.12.2017

ORDER

This is assessee's appeal for assessment year 2009-10 against the confirmation of levy of penalty u/s 271(1)(b) of the IT Act. The assessee has contended that as per the assessment order dated 14.12.2011, which was passed u/s 143(3) of the IT Act, the case of the AO himself is that the assessee had made compliance of various notices issued to him by furnishing the requisite evidences/details. As per the Id. Counsel for the assessee, it was only for this

reason, that the assessment was framed u/s 143(3) of the IT Act and not u/s 144 of the Act thereto; and that being so, there was no failure on the part of the assessee.

2. On the other hand, the ld. DR has placed strong reliance on the impugned order.

3. I have heard both the parties and have perused the material on record. The assessment order dated 14.12.2011 has been passed u/s 143(3) of the IT Act. As such, the compliance by the assessee to the notices issued to him stands accepted. This compliance could not be made initially for reasons beyond the control of the assessee, as stated. The assessee is an ex-army personnel. During the year, he was working with the Security Services Organization and was also getting pension from the Army. The assessee's daughter is an advocate. There was a matrimonial dispute. The assessee's daughter was granted divorce by the Competent Court. It was in these circumstances, that the compliance to the notices could not initially be made. The assessee was, thus, prevented by reasonable and sufficient cause.

4. In 'Akhil Bhartiya Prathmik Shmshak Sangh Bhawan Trust vs. ADIT', 115 TTJ 419 (Del) and 'Parmeshwari Textiles vs. ITO', 146 Taxmann 38 (Jodhpur), amongst other cases, under similar circumstances, penalties have been deleted.

5. In view of the above, the penalty imposed on the assessee is deleted.

6. In the result, the appeal is allowed.

Order pronounced in the open court on 21/12/2017.

Sd/-

**(A.D. JAIN)
JUDICIAL MEMBER**

Dated 21 /12/2017

AKV

Copy forwarded to:

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

ASSISTANT REGISTRAR