

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA Nos. 53 to 59/Jab/2017

निर्धारण वर्ष/ Assessment Year : 2010-11 to 2016-17

Ranjeet Shivhare, C-29, Civil Lines, Betul (MP) PAN : ARUPS 3197 F	Vs	Deputy Commissioner of Income-tax Cenral-1, Bhopal
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आयकर अपील सं./ ITA Nos. 62 to 68/Jab/2017

निर्धारण वर्ष/ Assessment Year : 2010-11 to 2016-17

Smt. Sunita Shivhare C-29, Civil Lines, Betul (MP) PAN : BDGPS 4272 Q	Vs	Deputy Commissioner of Income-tax Cenral-1, Bhopal
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Dhiraj Ghai, CA
Revenue by :	Shri PD Chougule, DR

सुनवाई की तारीख/Date of Hearing : 15/03/2018

घोषणा की तारीख /Date of Pronouncement: 16/03/2018

आदेश/O R D E R

PER BENCH :-

This bunch of fourteen appeals by two assesseees (seven appeals each) have been filed against two separate orders of learned Commissioner of Income-tax (Appeals)-3, Bhopal (MP) dated 02.08.2017 in the case Smt. Sunita Shivhare and dated 11.08.2017 in the case of Shri Ranjeet Shivhare, arising out of order u/s 271(1)(b) of the Income-tax Act, 1961 (hereinafter referred to as the "the Act") framed by the DCIT (Central)-1, Bhopal imposing penalty of Rs.10,000/- each in Assessment Years 2010-11 to 2016-17. Since all these appeals pertain to the same group and the issue involved is also identical, all these appeals are decided by this consolidated order for the sake of convenience.

2. The facts of the case, as culled from the records, are that a search under Section 132 was carried out in the case of the assessee(s) on 07.01.2016. Assessee(s) was asked to file the returns of income u/s 153 A for all the A.Ys 2010-11 to 2015-16 vide notice dated 27.10.2016. Thereafter, the Assessing Officer issued notices u/s 142(1) with questionnaires for A.Ys 2010-11 to 2016-17 on 22.05.2017 and required compliance on 29.05.2017 and also informed that failing to compliance of said notice would attract penalty of Rs. 10,000/- for each assessment year. However, on the date fixed for hearing on 29.05.2017, no compliance was made. Therefore, show cause notices for all the A.Ys 2010-11 to 2016-17 were issued by the Assessing Officer to the assessee(s), which were also not complied with. Subsequently, Assessing Officer imposed penalty of Rs.10,000/- u/s. 271(1)(b) of the Act for each assessment year. Aggrieved by the order of the Assessing Officer imposing penalty, assessee(s) went in appeal before the Id. CIT(A) but did not succeed. Further aggrieved, the assessee(s) is now in appeal before us.

4. We have heard the rival contentions and perused the material placed before us. We find that one of the assessee Smt. Sunita Shivhare met with an accident and incurred injury in the left angle. She was operated at Manipal Hospital and also confined to bed for a long time. Various documents are placed in the paper-book from page no.7-14 which substantiate the fact of the injury as well as regular medical treatment, which prevented the assessee to appear before the Assessing Authority on various dates of hearing. In the case of another assessee Shri Ranjeet Shivhare also appearance before the Assessing Authority was prevented due to illness because of which the assessee has to undergo regular treatment. We, therefore, in the given facts and circumstances of the case, observe that both the assesseees are having a reasonable cause which prevented them from

appearing on various dates of hearing before the Assessing Authority. However, this fact is not disputed that subsequently the assessee co-operated in the completion of assessment proceedings. Section 273B of the Act provides that penalty imposed under Section 271(1)(b) may be deleted if the assessee has a reasonable cause which prevents him/her from complying to the notices issued by the Assessing Authority and in the instant appeals also we are satisfied with the reasons given by the assessee which prevented them to appear before the Assessing Authority on various dates of hearing. We, therefore, in the given facts and circumstances of the case, are of the view that both the assessees should not have been visited with penalty levied under Section 271(1)(b) of the Act and we, accordingly, delete the penalty levied by the Assessing Officer in all these assessment years and allow all these appeals of the assessee.

5. In the result, all fourteen appeals filed by the assessee(s) are allowed

Order pronounced in the Court on 16th March, 2018 at Jabalpur.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Sd/-

**(MANISH BORAD)
ACCOUNTANT MEMBER**

Jabalpur; Dated 16/03/ 2018

BK

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, / DR, ITAT, Jabalpur
6. गार्ड फाईल / Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./ Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Jabalpur