

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD %SMC+BENCH

Before: Shri Mahavir Prasad, Judicial Member  
And Shri Amarjit Singh, Accountant Member

ITA Nos. 2453 & 2454/Ahd/2016  
Assessment Year 2013-14

Sumitradevi Shah, 221, Manekbaug Society, Ambawadi, Ahmedabad PAN: ACKPS9184M (Appellant)	Vs	The DCIT, Circle 5(2), Ahmedabad (Respondent)
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Revenue by: Shri Prasoon Kabra, Sr. D.R.  
Assessee by: Written Submission

Date of hearing : 13-06-2018  
Date of pronouncement : 21-06-2018

**आदेश/ORDER**

**PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-**

These two assessee's appeals for A.Y. 2013-14, arise from order of the CIT(A), Ahmedabad-5 dated 08-08-2016, in proceedings under section 271(1)(b) of the Income Tax Act, 1961; in short %he Act+.

2. The identical facts and issues are involved in both the appeal therefore for the sake of convenience both theses appeal are adjudicated together by this common order by taking ITA 2453/Ahd/16 as lead case and its finding will be applicable to the other case also.

3. The assessee has raised following grounds of appeal:-

**ITA No. 2453/Ahd/2016**

*“1.0 The CIT(A) erred in upholding order u/s 271(1)(b) because the order passed by the assessing officer is bad in law since and it is contrary to the provisions of law and the facts of your appellant's case. It is submitted that it be so held now.*

*2.0 The allegations made by the assessing officer in the order framed u/s 271(1)(b) are contrary to the facts and unfounded. The order be quashed.*

*3.0 The appellant had respectfully complied with all the notice issued u/s 142(1) and in the event of any failure there is a reasonable cause i.e. insufficient period allowed by the assessing officer or ambiguity in the notice or non-availability of the assessing officer in the office. The order framed by the assessing officer be quashed.*

*3.1 The order framed by the assessing officer is bad in law as no reasonable opportunity of being heard has been provided to the appellant. The order has been framed by the assessing officer without affording any reasonable opportunity of being heard and therefore the order be quashed.”*

4. The brief facts of the case are that during the course of assessment proceedings, the assessing officer has issued notice u/s. 142(1) requiring the assessee to furnish requisite information on 29<sup>th</sup> Sep, 2015. However on the date of hearing neither anybody has attended nor furnished any written communication. Consequently, the assessing officer has issued show cause notice on 30<sup>th</sup> Sep, 2015 asking the assessee to explain why penalty u/s. 271(1)(b) should not be imposed. However, the assessee has failed to respond to the show cause notice issued by the assessing officer. Consequently, the assessing officer has imposed penalty of Rs. 10000 on the ground that assessee failed to make compliance with the notice u/s. 142(1) of the act without any reasonable cause. Assessee preferred appeal before the Id. CIT(A). The Id. CIT(A) has sustained penalty levied by the assessing officer.

5. During the course of penalty proceedings nobody has attended from the side of the assessee, however, a written submission dated 4<sup>th</sup> April, 2018 was furnished. In the written submission, it is submitted by the assessee that she is an old lady of more than 80 years and has been suffering from several physical problems arising because of old age. Her husband who was more than 80 years old was also suffering from several problems and needed constant attention and her husband passed away in Feb, 2016. Therefore, she stated that her poor health and sickness of her husband were the reasonable cause for not paying attention to the matter in time. Further, all the details have been filed and

necessary compliance was made. She further stated that assessing officer vide notice dated 142(1) had directed to provide exhaustive details for which her representative had attended before the assessing officer and requested for adjournment and on the basis of understanding the representative believed that request for adjournment was granted by the assessing officer. She further stated that vide letter dated 6<sup>th</sup> Nov, 2015 the notice dated 14<sup>th</sup> Sep, 2015 was duly complied with. She had further stated that all the hearing fixed from time to time thereafter fully complied with. The Id. departmental representative has supported the order of lower authorities. After hearing the Id. departmental representative and perusal of the written submission of the assessee and material on record we considered that there was reasonable cause for not attending the hearing fixed by issuing of notice u/s. 142(1) of the act because of old age, ill health and adjournment sought by the representative of the assessee. We have also considered that assessee has thereafter made full compliance to all the hearing taken place in this case before the completion of assessment u/s. 143(3) of the act. Looking to the above facts, we considered that the assessee has reasonable cause for not making compliance to the notice issued. Accordingly, we allow the appeal of the assessee

6. In the result, both the appeal of the assessee are allowed.

Order pronounced in the open court on 21-06-2018

**Sd/-**  
**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**  
**Ahmedabad : Dated 21/06/2018**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

**आदेश का प्रतिलिपि अर्पण / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)

5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,  
उप/सहायक पंजीकार  
आयकर अपील[य आ[धकरण,  
अहमदाबाद