

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC', NEW DELHI
BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER

ITA No. 5331/Del/2018
Assessment Year: 2010-11

KAILASH CHAND JAIN,
HOUSE NO. 106, D-4,
SHANTI KUNJ, MANDIR ROAD,
VASANT KUNJ,
NEW DELHI – 110 070
(PAN: AACPJ3408K)

VS.

ITO, WARD 52(2)
NEW DELHI

(APPELLANT)

(RESPONDENT)

Assessee by : Sh. Sachin Jain, CA
Revenue by : Sh. SL Anuragi, Sr. DR.

ORDER

The Assessee has filed the Appeal against the Order dated 30.12.2017 of the Ld. CIT(A)-11, New Delhi pertaining to assessment year 2010-11 on the following grounds:-

1. That on the facts and on the circumstances of the case where appeal of the assessee e-filing ack no. 355731630040118 dated 4.1.2018 against the quantum assessment which gave rise to the present proceedings for the corresponding AY 201-11 involving question of assumption of jurisdiction, the Ld. CIT(A) was wrong in not conceding the request of the assessee to tag the present proceedings alongwith quantum appeal.
2. The Ld. CIT(A) was wrong in upholding the levy of penalty amounting to Rs. 10,000/- imposed u/s. 271(1)(c) of the Act by the ITO, Ward 52(2), New Delhi.

3. The appellant craves leave to this Hon'ble Court to add, amend, alter or withdraw any ground at the time of hearing.

2. The brief facts of the case are that the AO had issued notice u/s. 148 of the Income Tax Act, 1961 (In short "Act") on 29.3.2017 and during the course of assessment proceedings, the AO issued various notices u/s. 142(1) of the Act. One such notice was issued on 01.12.2017 and the case was posted for hearing on 6.12.2017. As there was no compliance to this notice, the AO levied penalty u/s. 271(1)(b) of the Act for noncompliance of the notice. Against the levy of penalty, as aforesaid, the assessee appeal before the Ld. CIT(A), who vide his impugned order dated 30.12.2017 has dismissed the appeal of the assessee. Aggrieved with the impugned order, assessee is in appeal before the Tribunal.

3. During the hearing, Ld. counsel for the assessee has stated that the delay in dispute was attributed to late communication by the assessee who was out of station, as a result thereof assessee could not make compliance of the notice issued u/s. 142(1) of the Act dated 01.12.2017. Hence, he requested to delete the penalty confirmed by the Ld. CIT(A) and allow the appeal of the assessee.

4. On the other hand, Ld. DR relied upon the order of the Ld. CIT(A) and stated that he has passed a well reasoned order, which does not need any interference.

5. I have heard both the parties and perused the records especially the impugned order. It is noted that Assessee before the Ld. CIT(A) has submitted that the notice issued by the AO u/s. 148 of the Act was void and the assessee had not responded to the notice issued u/s. 142(1) of the Act due to some unavoidable circumstances. It is further noted that the AR has failed to give any reasonable explanation for failure to comply with the notice issued by the AO u/s. 142(1) of the Act. Hence, in the absence of any reasonable explanation, the penalty levied by the AO u/s. 271(1)(b) of the Act was rightly confirmed by the Ld. CIT(A) which does not need any interference on my part, therefore, I uphold the order of the Ld. CIT(A) on this issue and reject the ground raised by the Assessee.

6. In the result, the Appeal of the Assessee is dismissed.

Order pronounced on 14-02-2019.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date:14/02/2019

SRBhatnagar

Copy forwarded to: -

1. Appellant 2. Respondent 3. CIT 4.CIT (A) 5. DR, ITAT

By Order,

Assistant Registrar, ITAT, Delhi Benches

