

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.4262/Del/2018
Assessment Year: 2014-15

Logicladder Tech Pvt. Ltd.
204, Unitech Arcadia,
South City-II,
Sector-49,
Gurgaon.

Vs. ITO,
Ward-2(1),
Gurgaon.

PAN: AABCL9980G

(Appellant)

(Respondent)

Assessee by	:	Shri Sanjay Jain, CA
Revenue by	:	Shri S.L. Anuragi, Sr.DR
Date of Hearing	:	21.02.2019
Date of Pronouncement	:	26.02.2019

ORDER

This appeal by the assessee is directed against the order dated 5th February, 2018 of the CIT(A)-1, Gurgaon, relating to Assessment Year 2014-15.

2. Levy of penalty of Rs.10,000/- u/s 271(1)(b) of the IT Act by the Assessing Officer and confirmed by the CIT(A) is the only issue raised by the assessee in various grounds of appeal.

3. Facts of the case, in brief, are that the assessee is a company and filed its return of income on 19th September, 2014 declaring an income of Rs.3,10,660/-. The case of

the assessee was selected for scrutiny and statutory notice u/s 143(2) of the IT Act was issued to the assessee on 18th September, 2015 which was duly served on the assessee. Subsequently, notice u/s 142(1) was also issued by the Assessing Officer. Since there was non-compliance according to the Assessing Officer, to the various statutory notices issued by him, the Assessing Officer levied penalty of Rs.10,000/- u/s 271(1)(b) of the IT Act.

4. In appeal, the ld. CIT(A) confirmed the action of the Assessing Officer in levying the penalty u/s 271(1)(b) of the Act. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

5. The ld. counsel for the assessee drew the attention of the Bench to the assessment order which reads as under:-

“ The Return of income was filed on 19.09.2014 declaring an Income of Rs.3,10,660/-. The case was selected for scrutiny assessment and accordingly notice u/s 143(2) was issued on 18.09.2015 by the ITO-2(2),Gurgaon, which was duly served upon the assessee. Later on the case was transferred to this office due to change of jurisdiction. Thereafter statutory notices U/s 142(1) issued and complied with by the assessee. The information/details asked for have been furnished, discussed and placed on record. The assessment proceedings were attended by Shri Sanjay Jain, CA with whom the case was discussed. After discussion, assessment is completed at returned Income of Rs 3,10,660/-.

Assessed, Issue requisite document alongwith a copy of this order to the assessee. Charge penal interest as per IT Act.”

6. He submitted that assessment in the instant case has been completed u/s 143(3). The assessee has filed the requisite details before the Assessing Officer, therefore, no penalty u/s 271(1)(b) should have been levied.. Referring to the decision of the coordinate Bench in the case of *Globus Infocom Limited vs. DCIT in ITA*

No.738/Del/2014, order dated 29th June, 2016, he submitted that under identical circumstances, the Tribunal has cancelled the penalty levied u/s 271(1)(b) of the Act on the ground that when the order has been passed u/s 143(3) and not u/s 144 of the IT Act the subsequent compliance in the assessment proceedings is considered as good compliance and the default committed earlier can be ignored by the Assessing Officer and it cannot be said that the default is willful. Accordingly, the penalty levied by the Assessing Officer and sustained by the CIT(A) was deleted by the Tribunal. He accordingly submitted that since the facts of the present case are identical to the facts of the case decided by the Tribunal, therefore, penalty levied u/s 271(1)(b) of the IT Act by the Assessing Officer which has been upheld by the CIT(A) should be deleted.

7. The Id. DR, on the other hand, heavily relied on the order of the Assessing Officer and CIT(A).

8. I have considered the arguments made by both the sides and perused the orders of the authorities below. I find the Assessing Officer levied penalty of Rs10,000/- u/s 271(1)(b) of the IT Act on the ground that the assessee did not comply with the various statutory notices issued by him. However, a perusal of the assessment order shows that the order has been passed u/s 143(3) on 10.11.2016. Further, the Assessing Officer, in the body of the assessment order has mentioned that the assessee has complied with the statutory notices issued u/s 142(1) and the information/details asked for have been furnished which were discussed and placed on record. He has further mentioned that the assessment proceedings were attended by Shri Sanjay Jain, CA

with whom the case was discussed. Since the assessee has furnished requisite details for completion of assessment by compliance of statutory notices issued by the Assessing Officer and the assessment has been completed u/s 143(3), therefore, under the facts and circumstances of the case, I am of the considered opinion that it is not a fit case for levy of penalty u/s 271(1)(b) of the Act. I, therefore, set aside the order of the CIT(A) and direct the Assessing Officer to cancel the penalty so levied. The grounds raised by the assessee are accordingly allowed.

9. In the result, the appeal filed by the assessee is allowed.

The decision was pronounced in the open court on 26.02.2019.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMFBER

Dated:26th February, 2019

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

Asstt. Registrar, ITAT, New Delhi