

आयकर अपीलीय अधिकरण पुणे न्यायपीठ "बी" पुणे में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री अनिल चतुर्वेदी, लेखा सदस्य के समक्ष  
**BEFORE MS. SUSHMA CHOWLA, JM AND SHRI ANIL CHATURVEDI, AM**

**आयकर अपील सं. / ITA No.1607/PUN/2017**

**निर्धारण वर्ष / Assessment Year : 2012-13**

Sanjay Vasantao Wani,  
13, D.J. House,  
Opp. Model Colony,  
College Road,  
Nashik – 422005

.... अपीलार्थी/Appellant

PAN: AAHPW9506C

Vs.

The Income Tax Officer,  
Ward – 1 (4), Nashik

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Written submissions  
प्रत्यर्थी की ओर से / Respondent by : Shri Sudhendu Das

सुनवाई की तारीख / <b>Date of Hearing : 01.08.2019</b>	घोषणा की तारीख / <b>Date of Pronouncement: 22.08.2019</b>
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**आदेश / ORDER**

**PER SUSHMA CHOWLA, JM:**

The appeal filed by assessee is against order of CIT(A)-1, Nashik, dated 05.04.2017 relating to assessment year 2012-13 against penalty levied under section 271(1)(b) of the Income-tax Act, 1961 (in short 'the Act').

2. The assessee has raised the following ground of appeal:-

1. *On the basis of facts and the circumstances of the case and as per law, the Commissioner of Income Tax (Appeal)-I, Nashik, is not justified in confirming the levy of penalty of Rs.10,000/- u/s. 271(1)(b) of the Act.*

3. The issue raised in the present appeal is against levy of penalty under section 271(1)(b) of the Act at ₹ 10,000/-.

4. Briefly, in the facts of the case, case of assessee was taken up for scrutiny. The Assessing Officer issued notice under section 142(1) of the Act, dated 10.09.2014 along with questionnaire. The assessee vide letter dated 20.09.2014 requested for more time. The hearing of case was adjourned to 08.10.2014. The assessee did not put in appearance on 08.10.2014. Hence, notice under section 142(1) of the Act was issued on 09.10.2014. The assessee again did not file any submissions in response to the said notice and the Assessing Officer issued notice under section 271(1)(b) of the Act, dated 09.10.2014. In response to final opportunity, the assessee filed its submissions and pointed out that because of change in Authorized Representative, information could not be filed in time. The assessment was completed under section 143(3) of the Act vide order dated 18.03.2015. The Assessing Officer also initiated penalty proceedings under section 271(1)(b) of the Act. The Assessing Officer levied penalty under section 271(1)(b) of the Act for default of non-attendance on 08.10.2014. The levy of penalty was upheld by the CIT(A), against which the assessee is in appeal.

5. It may be pointed out that levy of penalty has been levied for non-attendance on 08.10.2014 i.e. the date on which the matter was adjourned after issue of notice under section 142(1) of the Act for appearance on 25.09.2014. After perusing the written submissions filed by assessee and arguments of the learned Departmental Representative for the Revenue, we find no merit in the aforesaid levy of penalty under section 271(1)(b) of the Act as the said penalty is leviable for default in non-attendance to the notice under section 142(1) of

the Act. The assessee did not default in the same as he did move an application for adjournment and had sought more time. The case was adjourned to 08.10.2014, on which date no notice under section 142(1) of the Act was issued. Hence, we find no merit in the levy of penalty under section 271(1)(b) of the Act. Accordingly, we direct the Assessing Officer to delete the same. The ground of appeal raised by assessee is thus, allowed.

6. In the result, the appeal of assessee is allowed.

Order pronounced on this 22<sup>nd</sup> day of August, 2019.

**Sd/-**  
**(ANIL CHATURVEDI)**  
लेखा सदस्य / ACCOUNTANT MEMBER

**Sd/-**  
**(SUSHMA CHOWLA)**  
न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक Dated : 22<sup>nd</sup> August, 2019.

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-1, Nashik;
4. The Pr.CIT-1, Nashik;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "बी" / DR 'B', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune