

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

ITA NO. 2454/MUM/2019

:

A.Y : 2014-15

M/s. Naman Fabtex Pvt. Ltd.,
42/48, Chintamani Building,
2nd floor, Room No. 17, Ramwadi
Kalbadevi, Mumbai 400 002.
PAN : AAECN3870G (Appellant)

Vs. Income Tax Officer – 4(3)(1),
Mumbai (Respondent)

Appellant by : Shri Rajendra Singh
Respondent by : Shri Ajai Pratap Singh

Date of Hearing : 14/10/2020
Date of Pronouncement : 14/10/2020

ORDER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-9, Mumbai (in short 'the CIT(A)') dated 26.03.2019 for Assessment Year 2014-15 confirming levy of penalty under Section 271(1)(b) of the Income Tax Act, 1961 (in short 'the Act').

2. Shri Rajendra Singh appearing on behalf of the assessee submitted that in scrutiny assessment proceedings, the assessee was duly represented by its authorised Chartered Accountant. The assessee cooperated fully with the Assessing Officer in scrutiny assessment proceedings. It was only on one occasion that the Authorised Representative (in short 'AR') of the assessee could not appear due to lack of communication of notice issued under Section 142(1) of the Act. The Accountant of assessee, Shri Durgasankar Suthar

without informing about notice left for his native place in Rajasthan. The Id. AR submitted that a perusal of the assessment order would show that whatever documents required by the Assessing Officer were duly furnished. No addition/disallowance was made by the Assessing Officer and income returned was accepted. The Id. AR prayed for deleting the penalty.

3. On the other hand, Shri Ajai Pratap Singh representing the Department vehemently defended the impugned order. The Id. Departmental Representative (in short 'DR') submitted that the assessee/AR of the assessee defied notice issued under Section 142(1) of the Act. No plausible reason whatsoever was given by the assessee for non-appearance/defying notice before the Assessing Officer.

4. We have heard the submissions made by rival sides and have examined the orders of the authorities below. Before the CIT(A), assessee has explained the reason for non-appearance of AR of the assessee on one of the dates. During scrutiny assessment proceedings it was explained that the Accountant of the assessee who is a resident of Janapur, Rajasthan without informing about receipt of notice under Section 142(1) of the Act left for his native place to be with his family. Hence, the AR could not attend the proceedings on one of the dates. A perusal of the assessment order reveals that whatever documents were called for by the Assessing Officer were furnished and no addition/disallowance was made in the returned income. I am satisfied that the assessee has been able to explain the reason for non-appearance of the AR of the assessee on one of the dates of hearing before the Assessing Officer. The impugned order is set-aside and the penalty levied under Section 271(1)(b) of the Act is deleted.

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

Order pronounced in the open court on Wednesday, the 14th October, 2020.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Date : 14th October, 2020

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "SMC" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai