

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'A', NEW DELHI**

**BEFORE,  
SHRI G.S. PANNU, VICE PRESIDENT  
AND  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**ITA No.6305/Del/2017  
(ASSESSMENT YEAR-2013-14)**

Sh. Jai Gopal Sondhi BE-274, 3 <sup>rd</sup> Floor, Gali No.5, Hari Nagar, New Delhi.  PAN -BEVPS 4352H	Vs.	Income Tax Officer, Ward-49(3), New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

**ITA No.6306/Del/2017  
(ASSESSMENT YEAR-2013-14)**

Shri Ashok Nayyar 81-A, Vikrant Enclave Mayapuri-1, New Delhi.  PAN -AEPPN 4185C	Vs.	Income Tax Officer, Ward-49(3), New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

**ITA No.6307/Del/2017  
(ASSESSMENT YEAR-2013-14)**

Sh. Jagjeet Singh Sahi B-41, 2 <sup>nd</sup> Floor, Hari Nagar, New Delhi.  PAN -BKBPS 5482A	Vs.	Income Tax Officer, Ward-49(3), New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

**ITA No.6308/Del/2017  
(ASSESSMENT YEAR-2013-14)**

Sh. Mohit Manocha Prop. M/s. Kunal Agency B-42/4, Double Storey, Ramesh Nagar, New Delhi.  PAN –ARPPM 777A	Vs.	Income Tax Officer, Ward-49(1), New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant By	<b>Ms. Aayushi Ajmani, CA</b>
Respondent by	<b>Sh. M. Barnwal, Sr. Dr</b>
Date of Hearing	<b>28.10.2020</b>
Date of Pronouncement	<b>28.10.2020</b>

### **ORDER**

#### **PER SUDHANSHU SRIVASTAVA, JM:**

These four appeals have been preferred by the above captioned assesseees and have been filed against the separate orders of the Learned Commissioner of Income Tax (Appeals) {CIT(A)} wherein he has upheld the imposition of penalties u/s 271(1)(b) of the Income Tax Act, 1961 (hereinafter called 'the Act'). Since these appeals involved identical issues, they were heard together and they are being disposed of through this common order for the sake of convenience.

2.0 The brief facts of the cases are that penalty u/s 271(1)(b) has been imposed by the Assessing Officers for non-compliance by

the assessees with respect to the statutory notices issued under the Act. In the case of Sh. Ashok Nayyar, the penalty levied is of Rs.20,000/-, in the case of Sh. Jagjeet Singh Sahi, the penalty levied is of Rs. 70,000/-, in the case of Jai Gopal Sondhi, the penalty levied is of Rs.90,000/- and in the case of Sh. Mohit Monocha, the penalty levied is of Rs.80,000/-.

3.0 The Ld. Authorized Representative (AR) appearing on behalf of all the four assessees and submitted that in all these four cases although the penalty proceedings had been initiated u/s 271(1)(b) of the Act for alleged non-compliance, the Assessing Officer had passed the assessment orders u/s 143(3) of the Act and not u/s 144 of the Act meaning thereby that the subsequent compliance in the assessment proceedings was considered as a good compliance and the default committed earlier was condoned by the Assessing officer and, therefore, the impugned penalties u/s 271(1)(b) could not have been levied by the Assessing Officer. Reliance was placed on the order of ITAT Delhi Bench in the case of *Akhil Bhartiya Prathmik Shikshak Sangh Bhawan Trust vs. ADIT reported in [2008] 115 TTJ 419 (Del.)* wherein a Co-ordinate Bench of

this Tribunal had taken the view that where an assessee had not complied with notice issued u/s 142(1) of the Act but the assessment order was passed u/s 143(3) of the Act and not u/s 144, it meant that subsequent compliance in assessment proceedings was considered as good compliance and defaults committed earlier were ignored by the Assessing Officer and therefore, levy of penalty u/s 271(1) (b) of the Act was not justified. The Ld. Authorized Representative prayed that the penalties imposed should be deleted.

4.0 Per contra, the Ld. SR. Departmental Representative (DR) vehemently supported the levy of penalty and submitted that no reasonable cause had been demonstrated by the assesseees for failure to comply with the statutory notices and, therefore, the penalty levied was legally correct and that a hyper technical view should not be taken and further that the subsequent passing of assessment orders u/s 143(3) of the Act by the Assessing Officer did not mean that the defaults committed earlier by the assesseees were ignored.

5.0 We have heard the rival submissions and have also perused the orders of the Lower Authorities. We note that although the Assessing Officer has levied penalty in all the four cases for non-compliance of statutory notices, all the same he has proceeded to frame the assessment order u/s 143(3) of the Act. We also note that the CIT(A), while dismissing the assessee's appeals has observed on identical lines in all the four impugned orders that subsequent compliance by the assessee to the statutory notices cannot be a basis for non levy of penalty on account of earlier defaults. The Ld. CIT(A) has also observed in all the four impugned orders that the claim of the assessee that no penalty is leviable since the assessment orders had been issued u/s 143(3) was not acceptable as the impugned penalty had been levied for specific defaults on specific dates. We are of the considered opinion that we are bound by the judicial precedent laid down by the Co-ordinate Bench of this Tribunal in the case of *Akhil Bhartiya Prathamik Shikshak Sangh Bhawan Trust vs. ADIT (supra)* wherein the Tribunal had taken a view that where the assessee had not complied with notice u/s 142(1) of the Act but the assessment order

was passed u/s 143(3) of the Act and not u/s 144 of the Act, that meant that subsequent compliance of assessment proceedings was considered as good compliance and defaults committed earlier were ignored by Assessing Officer and, therefore, levy of penalty u/s 271(1)(b) was not justified. The facts in these four appeals are identical to the facts in the case of *Akhil Bhartiya Prathmik Shikshak Sangh Bhawan Trust vs. ADIT (supra)* and further the Department has also not pointed out any order in favour of the Department in this regard. Therefore, respectfully following the order of the Co-ordinate Bench of this Tribunal in the case of *Akhil Bhartiya Prathmik Shikshak Sangh Bhawan Trust vs. ADIT (supra)*, we set aside the impugned orders in all the four appeals and direct the Assessing Officer to delete the penalty.

6.0 In the final result, all the four appeals of the captioned assessee stands allowed.

Order pronounced on 28/10/2020.

Sd/-  
**(G.S.PANNU)**  
**VICE PRESIDENT**

Dated: 28/10/2020  
PK/PS

Sd/-  
**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI