

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH "Virtual hearing E" COURT AT KOLKATA**

**Before Shri S.S.Godara, Judicial Member and
Dr.A.L. Saini, Accountant Member**

ITA No.349/Pat/2018 Assessment Year :2006-07
--

Navneet Kumar Kedia S/o Mohan Kumar Kedia Prop. M/s Kedia Trading Co. Gulabbagh, Purnia [PAN No.AEJPK 1399 H]	बनाम V/s.	Income Tax Officer Ward-3(1), Purnia
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri Alok Kumar Shahi, Advocate
प्रत्यर्थी की ओर से/By Respondent	Shri Ajay Kumar, Addl. CIT-SR-DR
सुनवाई की तारीख/Date of Hearing	17-09-2020
घोषणा की तारीख/Date of Pronouncement	17-09-2020

आदेश /ORDER

PER BENCH:-

This assessee's appeal for assessment year 2006-07 arises against the Commissioner of Income Tax (Appeals)-Bhagalpur's order dated 31.10.2013 involving penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. For the reasons stated in the assessee's identical condonation petition for delay of 197 days' on account of compilation of necessary records etc., we hold that the same is neither intentional nor deliberate but on account of circumstances beyond his control. The same stands condoned. The case is now taken up for adjudication on merits.

3. The assessee's identical sole substantive grievance raised in this instant appeal challenges correctness of both the lower authorities action

imposing penalty ₹65,100/-. Learned counsel invited our attention to the corresponding penalty notice dated 31.10.2013 nowhere indicating as to whether the assessee had concealed particulars of his income or furnishing inaccurate particulars of such income. We find no merit in Revenue's instant stands in view of the case laws (2009) 309 ITR 107 (Del) *Madhushree Gupta vs. Union of India*, (2013) 359 ITR 515 (Kar) *Commissioner of Income Tax vs. Manjunatha Cotton & Grinning Factory and Commissioner of Income Tax vs. Rampur Engineering Co. Ltd.* (2009) 309 ITR 143 (Del) & *PCIT v/s. Dr. Murari Mohan Koley* ITAT No. 306 of 2017 **GA No. 2968 of 2017** dt.18.7.2018 (Cal). Their lordships decide the issue in assessee's favour that such a compliance has to come at the time of finalization of assessments proceedings as well. We thus reject the Revenue's foregoing stand relying on both the lower authorities' action imposing the impugned penalty. Same is directed to be deleted therefore.

4. This assessee's appeal is allowed.

Order pronounced in open court at the close of hearing on Thursday
17st September, 2020

Sd/-
(लेखा सदस्य)
(A.L. Saini)
(Accountant Member)
*Dkp Sr.P.S

Sd/-
(न्यायिक सदस्य)
(S.S.Godara)
(Judicial Member)

दिनांक: 17/09/2020 कोलकाता।

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी /Appellant-Shri Navneet Kumar Kedia S/o Mohan Kr. Kedia Prop: M/s Kedia Trading Co. Gulabbagu, Purnia
2. प्रत्यर्थी/Respondent-Income Tax Officer Ward-3(1), Purnia
3. संबंधित आयकर आयुक्त पाटना/ Concerned CIT Patna
4. आयकर आयुक्त- अपील पाटना / CIT (A) Patna
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण पाटना, / DR, ITAT, Patna
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary, Head of
Office/DDO Patna
आयकर अपीलीय अधिकरण, पाटना ।