

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'B' LUCKNOW**

[Through Virtual Hearing]

**BEFORE SHRI A.D JAIN, VICE PRESIDENT AND
SHRI T.S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.645/Lkw/2018
A.Y. 2014-15

Dena Bank, 128/139 Block-E, Kidwai Nagar, Kanpur PAN AAACD 4249B	Vs.	Ld. Addl. Director of Income Tax, Intelligence & Criminal Investigation, Vaibhav Building, Civil Lines, Kanpur 208001
(Appellant)		(Respondent)

Appellant by	Shri Abhinav Mehrotra, Advocate
Respondent by	Shri Harish Gidwani, DR
Date of hearing	11/11/2020
Date of pronouncement	16/12/2020

ORDER

PER T.S. KAPOOR, A.M.:

This is an appeal filed by the assessee against the order of Id. CIT(A) dated 07.03.2018. The assessee has taken various grounds of appeal however, the crux of grounds of appeal is action of Id. CIT(A) he has confirmed the penalty imposed by the AO u/s. 272A(2)(C) of the Income Tax Act, 1961.

2. At the outset, the Id. AR submitted that there is a delay of 121 days in filing the appeal and which had happened due to the reason that branch informed the Zonal Manager about the dismissal of appeal vide letter dated 09.04.2018 and

the bank Management passed an order dated 11.6.2018 to recover the penalty amount from salary of manager and after that after a lot of persuasion and submissions by the manager to higher authorities that penalty was not sustainable, the assessee was allowed to file appeal vide letter dated 20.8.2018 and therefore, has resulted delay of 121 days. It was submitted that the assessee has filed duly sworn in affidavit and application for condonation of delay which is on record and the reason for delay in filing the appeal is genuine, therefore, it was prayed that the delay in filing the appeal may be condoned. Ld. DR had no objection to granting the condonation of delay and therefore, the Id. AR was asked to proceed with his arguments. Ld.AR submitted that assessee is a branch of Dena Bank and which had received a notice dated 09.09.2014 u/s. 133(6) of the Act for furnishing of certain information to the Department and a reply to the above notice was duly filed on 23.09.2014. However, on 08.10.2014 the assessee again received a letter from the Department wherein the fact of having received the reply was mentioned but it was also mentioned that the reply was without CD and the hard copy was not in the prescribed form. It was submitted that after there was no correspondence until a notice u/s. 271 dated 04.10.2016 was served on the assessee. The Id. AR submitted that on 16.10.2016 the assessee filed the information on the prescribed form along with CD and invited our attention to the paper book pg. 5 where reply of the assessee along with its acknowledgement was placed. It was prayed that the penalty sustained by Id. CIT(A) was not imposable as the assessee had filed the necessary information

immediately though the same was not in the prescribed format but even in the prescribed format along with CD it was filed on 27.10.2016. Therefore it was prayed that penalty sustained by Id. CIT(A) be deleted.

3. The Id. DR on the other hand placed reliance on the orders of the authorities below.

4. We have heard the parties and have perused the material available on record. We find that assessee was served with notice u/s. 133(6) dated 09.09.2014 and the assessee was required to file the reply within ten days from the receipt of such notice. The assessee filed the reply to the above notice on 23.09.2014 which fact is apparent from the letter dated 13.10.2014 placed at P.B. pg. 4. The reply seems to have been filed within the prescribed period of time as the date of receipt of notice dated 9.9.2014 is not on record. Therefore, assuming a period of 3-4 days in transit it can be safely said that the reply must have been given within the prescribed period of ten days. Moreover the Department confirmed the receipt of reply dated 23.9.2014 and did not raise any objection regarding delay in filing the reply. The only objection by the Department was that the information was not complete and same was without CD and that the information was not in the prescribed form. We find that on receipt of letter of the Department dated 8.10.2014 indicating therein that reply was not in the prescribed format the assessee did not reply until 25.10.2016 on which date the assessee wrote a letter to the Department narrating therein that the letter dated 08.10.2014 could not be replied and there was no further correspondence from

the Department and in the same letter the assessee submitted that the information was submitted to the Department within time on the format generate by bank which was though not in the prescribed format but contained full information. The assessee further submitted the same information in the prescribed format alongwith CD and requested the Department not to levy the penalty. However, the Department passed order dated 11.11.2016 and imposed a penalty of Rs.78,700/-. We find that though assessee furnished the information within prescribed period of time but the same was not on the prescribed format and CD was also not filed but which later on was filed in the prescribed form along with CD. Therefore, keeping in view the fact that the information was filed within the prescribed period of time, the penalty leviable is not justified, therefore, we delete the same.

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

(Order pronounced in the open court on 16/ 12/2020 in accordance with Rule 34(4) of I.T.AT. Rules.)

Sd/-
(A.D. Jain)
Vice President

Sd/-
(T.S. Kapoor)
Accountant Member

Aks -

Dtd. 16/12/2020

Copy of order forwarded to:

(1) <i>The appellant</i>	(2) <i>The respondent</i>
(3) <i>Commissioner</i>	(4) <i>CIT(A)</i>
(5) <i>Departmental Representative</i>	(6) <i>Guard File</i>

By order

PRIVATE SECRETARY