

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI

**BEFORE SHRI SHAMIM YAHYA, AM AND
SHRI PAVAN KUMAR GADALE, JM**

ITA Nos. 5486 & 5487/Mum/2018
(Assessment Years: 2009-10 & 2012-13)

M/s. Designer World Pvt. Ltd. 603/604, Sundervan, A/4, Off Lokhandwala Road, Andheri (W), Mumbai-400 053	Vs.	ITO-9(3)(1) Mumbai
PAN/GIR No. AACCD 7027 P		
(Appellant)	:	(Respondent)
Appellant by	:	None
Respondent by	:	Shri R. Mishra
Date of Hearing	:	30.03.2021
Date of Pronouncement	:	06.04.2021

ORDER

Per Shamim Yahya, A. M.:

These are appeals by the assessee against the respective orders of the learned Commissioner of Income Tax (Appeals), Mumbai ('ld.CIT(A) for short), wherein penalty u/s.271(1)(b) of the Income Tax Act, 1961 ('the Act' for short) of Rs.10,000/- each has been confirmed by the ld. CIT(A) for the assessment years (A.Y.) 2009-10 and 2012-13.

2. At the outset, we note that despite several notices, nobody has appeared on behalf of the assessee. The appeals are time barred inasmuch as the receipt of ld. CIT(A)'s order is mentioned as 25.10.2017, while the appeals are filed on 27.09.2018. For the reasonable cause of the delay, the ld. Counsel of the assessee has submitted a written plea, wherein there is no mention of the delay or reasonable cause but, only case laws are mentioned. Moreover the appeals are defective, inasmuch as the person's signature on appeal memo

is cancelled. The non co-operative attitude of the assessee is very much clear in the orders of the authorities below. In this regard, we may refer to the order of the ld. CIT(A) for A.Y. 2012-13, where while upholding the penalty, the ld. CIT(A) has held as under:

5.2 In the penalty order imposed by the A.O. u/s. 271(1)(b), it is mentioned that a notice u/s. 142(1) one of the Act was issued by the A.O. on 15.09.2014 which was duly served upon the assessee. On the stipulated date neither anyone appear on behalf of the appellant nor was any adjournment application submitted by the assessee company. A remainder was also issued by the A.O. on 29.12.2014 which was also served by speed post. But again it was not complied by the assessee company. Subsequently, a show cause as issued by the A.O. vide letter dated 30.01.2015 asking the appellant why not penalty u/s.271(1)(b) should be imposed for non compliance of notice u/s.142(1) of the Income Tax Act, 1961. Appellant even did not respond to the notice issued by the A.O. Therefore, the ld. A.O. imposed a penalty of Rs.10,000/- u/s. 271(1)(b) vide order dated 10.03.2015. Although, appellant filed an appeal against the order of A.O. u/s. 271(1)(b) but in spite of specific opportunity granted by this office on 15.12.2016, 05.01.2017, 06.04.2017, 12.05.2017 and 27.06.2017 dates appellant did not avail the opportunity of being heard given by this office. In spite of five specific opportunities granted to the appellant, the appellant did not avail any of the opportunity in its defense either by way of personal hearing or through written submissions. Therefore, I have no other option rather than to decide the appeal on merit after considering the material available on record. From the conduct of the appellant it appears that it is not interested in pursuing the penalty. During the stipulated dates either the appellant or its representatives appeared before the under signed nor any adjournment application was filed. The conduct of the appellant clearly proves that it has nothing to say in its defense. Therefore appeal filed by the appellant is dismissed.

3. Accordingly, after perusing the records and hearing the ld. Departmental Representative (ld. DR for short), we find that the appeals are defective and time barred. Accordingly, we uphold the order of the ld. CIT(A). Hence, these appeals by the Assessee stands dismissed.

4. In the result, the appeals filed by the Assessee stands dismissed.

Order pronounced in the open court on 06.04.2021

Sd/-

(Pavan Kumar Gadale)
Judicial Member

Mumbai; Dated : 06.04.2021
Roshani, Sr. PS

Sd/-

(Shamim Yahya)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai