

**आयकर अपीलीय अधिकरण "जी " न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI**

**माननीय श्री छल्ला नागेन्द्र प्रसाद, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI C.N. PRASAD, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)**

आयकर अपील सं./ I.T.A. No.3062/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2012-13)

Shri Shyam Advisory Services Pvt. Ltd. Plot No.286/13, Kalyan Apartment Near Gandhi Market, Dr. BA Road Sion, Mumbai-400 022	बनाम/ Vs.	DCIT-3(3)(1) Room No.609, 1 st Floor Aaykar Bhavan, M.K. Road Mumbai-400 020.
PAN/TAN: AAPCS-1731-E		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri T.S. Khalsa– Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	21/06/2021
घोषणा की तारीख / Date of Pronouncement	:	21/06/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment year (AY) 2012-13 contest the order of Ld. Commissioner of Income Tax (Appeals)-8, Mumbai {in short CIT(A)} dated 19/03/2019 which has confirmed penalty of Rs.10,000/- as levied by Ld. AO u/s 271(1)(b).
2. Though none appeared for assessee, however, the material on record was sufficient for disposal of the appeal. Hence, we proceed with

adjudication of the appeal. The Ld. DR pleaded for dismissal of the appeal.

3. Facts leading to imposition of penalty are that the assessee's case was reopened for the year under consideration as per due process of law and notice u/s 148 was issued on 31/03/2017. During the course of assessment proceedings, certain details were called from assessee vide notice u/s 142(1) dated 17/10/2017. However, the same remained un-responded to by the assessee. Accordingly, show-cause notice for non-compliance was issued to the assessee which also remained un-responded to by the assessee. Consequently, Ld. AO levied penalty of Rs.10,000/- u/s 271(1)(b) for non-compliances.

4. Before Ld. CIT(A), the assessee, inter-alia, pleaded that the assessment was finally been framed u/s 143(3) and not u/s 144 and therefore, penalty was not justified. However, not convinced, the penalty was upheld by Ld. CIT(A) against which the assessee is in further appeal before us.

5. Upon perusal of impugned order, it could be gathered that show-cause notice as issued by Ld. AO while levying penalty did not mention the correct AY. Secondly, it is undisputed fact that the assessment has ultimately been framed as regular assessment u/s 143(3) r.w.s. 147 and it is not a case of best judgment assessment. This would show that the assessee has cooperated during assessment proceedings. Therefore, this is not a fit case for levy of penalty. Accordingly, we delete the impugned penalty.

6. The appeal stand allowed in terms of our above order.

Order pronounced on 21st June, 2021.

Sd/-

(C.N. Prasad)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 21/06/2021
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.