

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B": HYDERABAD  
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 475/H/2020 Assessment Year: 2016-17		
SPR Publications Pvt. Ltd., Hyderabad.  PAN - AAKCS 2889 Q	Vs.	Asst. Commissioner of Income-tax, Central Circle - 3(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Shri P. Murali Mohana Rao
Revenue by:		Shri Rohit Mujumdar
Date of hearing:		30/06/2021
Date of pronouncement:		16/07/2021

**ORDER**

**PER L.P. SAHU, A.M.:**

This appeal filed by the assessee is directed against CIT(A) - 3, Hyderabad's order dated 02/12/2019 for AY 2016-17 involving proceedings u/s 271(1)(b) of the Income- Tax Act, 1961; in short "the Act".

2. The assessee has raised 13 grounds of appeal, the sum and substance of which are against the action of the

revenue authorities in imposing the penalty of Rs. 10,000/- u/s 271(1)(b) of the Act.

3. Briefly the facts of the case are that the assessee company filed its return of income for the AY 2016-17 on 29/03/2018 admitting an income of Rs. Nil. Subsequently, the case was selected for scrutiny and accordingly, a notice u/s 143(2) on 09/08/2018 was issued and served on the assessee fixing the date of hearing on 23/08/2018. Since, there was no compliance from the assessee to the said notice, notice u/s 142(1) on 20/08/2018 was issued and served on the assessee fixing the date of hearing on 04/09/2018. However, there was no compliance from the assessee to the said notice also.

3.1 The AO, therefore, issued a notice u/s 271(1)(b) on 27/09/2018 to the assessee to show cause as to why penalty u/s 271(1)(b) should not be levied for non-compliance of notices u/s 143(2) and 142(1). Since there was no response to the said notice, the AO levied penalty of Rs. 10,000/- u/s 271(1)(b) of the Act.

4. Against the said penalty, assessee preferred an appeal before the CIT(A), who confirmed the penalty levied by the AO.

5. Aggrieved, the assessee is in appeal before the ITAT.

6. Before us, the ld. AR of the assessee submitted that the CIT(A) ought to have appreciated the factual position that the assessee was away from city on the date of hearing fixed in respect of notice u/s 142(1) and thus the assessee was prevented by sufficient reasons beyond its control. The AR of the assessee also submitted that issuing notice u/s 142(1) and show cause notice u/s 271(1)(b) on a single occasion cannot be said to be a fair and reasonable opportunity and thus punitive action without affording a fair opportunity of hearing is beyond law and unsustainable. The ld. AR of the assessee relied on the following cases:

1. Anil Kumar Seth, ITA Nos. 7516 to 7522/Del/2017, ITAT, Delhi
2. Sun Infrastructure Pvt. Ltd., ITA Nos. 3015 to 3017/Pun/2017.

6. The ld. DR, on the other hand, relied on the orders of revenue authorities.

7. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. On perusal of order of the order of the AO, we find that as contended by the ld. AR of the assessee that the AO has not provided sufficient opportunity to the assessee to produce the documents as it hardly 10 to 15 days given to furnish the documents which

will be difficult to the assessee to provide the documents required as it is beyond the control of the assessee to submit the documents as the information called for by the AO involves collection and compilation of lot of details/data. Therefore, on considering the totality of the fact of the case, it is not a fit case to attract penalty u/s 271(1)(b) and accordingly, we cancel the penalty levied following the decisions relied upon by the assessee cited supra, which support the case of the assessee. Accordingly, the grounds raised by the assessee on this issue are allowed.

8. In the result, appeal of the assessee is allowed.

Pronounced in the open court on 16<sup>th</sup> July, 2021.

**Sd/-**  
**(S.S. GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(L. P. SAHU)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated: 16<sup>th</sup> July, 2021.

*Kv*

*Copy to :*

<i>1</i>	<i>M/s SPR Publications Pvt. Ltd., C/o P. Murali &amp; Co., CAs, 6-3-655/2/3, 1<sup>st</sup> Floor, Somajiguda, Hyderabad - 82</i>
<i>2</i>	<i>ACIT, Central Circle - 3(2), Hyderabad.</i>
<i>3</i>	<i>CIT(A) - 3, Hyderabad.</i>
<i>4</i>	<i>Pr. CIT - 3, Hyderabad.</i>
<i>5</i>	<i>ITAT, DR, Hyderabad.</i>
<i>6</i>	<i>Guard File.</i>