

आयकर अपीलिय अधीकरण, न्यायपीठ –“B” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
[Before Shri A. T. Varkey, Judicial Member & Shri Manoj Kumar Aggarwal, AM]

I.T.A. No. 2255/Kol/2019
Assessment Year: 2015-16

M/s. H. K. B. K. Motors Pvt. Ltd. (PAN: AACCH2179N)	Vs.	Assistant Commissioner of Income Tax, Circle-5(2), Kolkata.
Appellant		Respondent

Date of Hearing (Virtual)	10.11.2021
Date of Pronouncement	12.11.2021
For the Appellant	N o n e
For the Respondent	Smt. Ranu Biswas, Addl. CIT

ORDER

Per Shri A. T. Varkey, JM:

This is an appeal preferred by the assessee against the order of Ld. CIT(A)-2, Kolkata dated 20.06.2019 for AY 2015-16 confirming the penalty imposed by the AO u/s. 271(1)(b) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”).

2. None appeared for the assessee. However on a perusal of the grounds of appeal of the assessee it reveals that the assessee is aggrieved by the order passed by the Ld. CIT(A) confirming the penalty u/s. 271(1)(b) of the Act amounting to Rs.20,000/- as imposed by the AO.

3. Briefly stated facts are that the AO while passing the penalty order u/s. 271(1)(b) of the Act of Rs.20,000/-has held that there was non-compliance of notices, show cause notice and even penalty notice. In this respect, the assessee submitted that the Managing Director of the assessee company was taking care of and looking after his wife who was severely suffering from cancer and to substantiate that also filed copy of Medical treatment report of his wife. Therefore, the assessee prayed before the AO that proceeding initiated u/s. 271(1)(b) of the Act may be dropped. However, since there was non-compliance on the part of the assessee before him, the AO imposed penalty u/s. 271(1)(b) of the Act. Aggrieved,

assessee preferred appeal before the Ld. CIT(A), who confirmed the action of the AO. Aggrieved, assessee is in appeal before us.

4. We have virtually heard the Ld. Sr, DR and gone through the facts and circumstances of the case. We note that since there was non-compliance on the part of the assessee, the AO imposed penalty u/s. 271(1)(b) of the Act. The assessee pleaded that non-compliance before the AO was not deliberate but there was reasonable cause for not being present during assessment proceedings. The assessee submitted the cause for non-appearance/non-compliance was that the Managing Director of the assessee company was taking care and looking after his wife who was critical due to cancer and to substantiate the same also filed copy of Medical treatment report of his wife. However, the AO imposed penalty of Rs. 20,000/- u/s. 271(1)(b) of the Act. On appeal the Ld. CIT(A) confirmed the same. Even though there is no appearance before us from the side of assessee despite notice, after going through the records, we are inclined to dispose of the appeals *ex parte qua* the assessee. We note from the reasons cited by the assessee for non-compliance that M.D of Assessee Company taking care of his wife who was critically ill due to cancer, which fact was supported by medical evidence,. So we are of the opinion that the assessee was prevented by sufficient and reasonable cause for non-compliance on its part before the AO. Since there being a reasonable cause as per section 273B of the Act, we order the AO to delete the penalty imposed by him.

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

Order is pronounced in the open court on 12th November, 2021.

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(A. T. Varkey)
Judicial Member

Dated: 12th November, 2021

JD, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s. H. K. B. K. Motors Pvt. Ltd., 255, Canning Street, Brudham Housing Complex, Building No. 4, Flat No. 29, Kolkata-700 048.
2. Respondent – ACIT, Circle-5(2), Kolkata.
3. CIT(A)-2, Kolkata.(sent through e-mail)
4. CIT, Kolkata.
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Senior Private Secretary/DDO
ITAT, Kolkata Benches, Kolkata
