

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH: AMRITSAR
BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
AND SHRI MANISH BORAD, ACCOUNTANT MEMBER**

I.T.A No. 690/ASR/2019
(ASSESSMENT YEAR: 2010-11)

Smt. Manjit Kaur W/o Lehmerss Singh, Village DhaniPindTeh. Phillaur, Jalandhar -144 633 [PAN:BAJPK5801P] (Assessee)	Vs.	ITO, Ward-2 Income Tax Office Phagwara (Revenue)
--	------------	---

Assessee by	Sh. Tarun Bansal, Adv.
Revenue by	Sh.S. M. Surendranath, D. R.

Date of Hearing	02.12.2021
Date of Pronouncement	20.12.2021

ORDER

Per Manish Borad, A. M.:

This appeal is filed by the assessee feeling aggrieved by the order of Ld. CIT(A)-2, Jalandhar dated 24.09.2019 for Assessment Year 2010-11.

2. The assessee has raised the following grounds of appeal:

“1. That CIT(A) has wrongly confirmed penalty u/s 271(1)(b), by saying that no compliance was made by assessee to notice by A.O. served u/s 142(1) by affixture, as no affixture of notice u/s 142(1) was ever done by A.O.

2. That CIT(A) has wrongly confirmed penalty u/s 271(1)(b) by saying that Postmaster certificate is undated, whereas, returned Dak of notice is already lying in the record of department.”

3. Brief facts of the case are that the assessee is an individual assessment for AY 2010-11 was from the *ex-parte* u/s 144 r.w.s 147 of the Act. Ld. AO initiated penalty proceedings u/s 271(1)(b) of the Act for non-appearance in the assessment proceedings on the dates called for the Ld. AO. Subsequently penalty of Rs. 10,000/- was levied u/s 271(1)(b) of the Act vide order dated 17.05.2018.

4. Assessee carried out this matter before the Ld. CIT(A) but did not succeed.

5. Now, the assessee is in appeal before this Tribunal.

6. Ld. Counsel for the assessee vehemently argued referring to paper book dated 01.12.2021 containing 28 pages and also submitted that assessee was not served with the notice, Copy of certificate of Postmaster also filed before the lower authorities. It was also stated that assessee has not intentionally avoided to appear before Ld. AO. Prayer made to delete the penalty.

7. Per contra, the Ld. DR supporting the order of Ld. CIT(A) and both the lower authorities.

8. We have heard the rival contention and perused the record placed before us. Sole issue raised in this appeal is against the finding of the Ld. CIT(A) confirming the levy of penalty u/s 271(1)(b) of the Act at Rs.10,000/- for non appearance before the Assessing Officer. On perusal of records we find that on some instances notice were sent to the wrong address due to which the postal authorities could not deliver the document. A confirmation letter from the Postmaster of returning the speed post has been filed. Notice u/s 148 was served through affixture which was

never received by the assessee as the address was not correct. Further Ld. AO kept an issuing notices on the wrong address even when the first notice was not served due to wrong address. All these series of facts shows that there was a mis-communication at the end of the Assessing Officer about the address and also not mentioning the husband's name of the assessee which resulted in non serving of the notice since she resided in village. Under these given facts and circumstances, we find no justification in the action of the Ld. Assessing Officer in initiating and levying penalty u/s 271(1)(b) of the Act. We accordingly set aside the finding of the Ld. CIT(A) and delete the penalty of Rs. 10,000/- levied u/s 271(1)(b) of the Act. Ground nos. 1 & 2 raised by the assessee is allowed.

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

Order pronounced in the open court on 20/12/2021.

**Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER**

**Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER**

Dated 20/12/2021

GP/Sr. P.S.

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

True Copy
By Order