

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : B : NEW DELHI  
BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.934/Del/2018  
Assessment Year: 2014-15

Vikas Gramodyog Samiti,  
21-GA, Industrial Estate,  
Kalpi Road,  
Kanpur.

Vs DCIT, Exemption Ward,  
Ghaziabad.

PAN: AAAY1574B

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Shri Rajesh Kr. Dhanesta, Sr. DR
Date of Hearing	:	20.04.2022
Date of Pronouncement	:	20.04.2022

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the ex parte order dated 09.11.2017 of the CIT(A)-II, Kanpur, relating to assessment year 2014-15.

2. None appeared on behalf of the assessee at the time of hearing. However, the assessee had filed paper book and written submissions. We, therefore, deem

it proper to decide the issue on the basis of the material available on record and after hearing the ld. DR.

3. Although a number of grounds have been raised by the assessee, these all relate to the order of the CIT(A) in confirming the penalty of Rs.10,000/- levied by the AO u/s 271(1)(b) of the IT Act.

4. Facts of the case, in brief, are that the assessee is a society registered under the Societies Registration Act with Registrar of Society, UP. The Society is also registered u/s 10(23B) of the IT Act. It filed its return of income on 16<sup>th</sup> September, 2015 declaring nil income. The case was selected for scrutiny since the assessee did not appear before the AO on a number of occasions, the AO initiated penalty proceedings u/s 271(1)(b) of the IT Act. Since there was no compliance from the side of the assessee, the AO levied penalty of Rs.10,000/- u/s 271(1)(b) of the IT Act. Since the assessee did not appear before the CIT(A) despite issue of notice, the ld.CIT(A), in his ex parte order sustained the penalty levied by the AO. While doing so, he further noted that the assessee has filed appeal u/s 271B of the IT Act as per the Memo of Appeal and grounds of appeal whereas the AO has actually levied penalty u/s 271(1)(b) of the Act.

5. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

6. We have heard the ld. DR and perused the record. Although the AO has levied the penalty u/s 271(1)(b) of the Act, however, a perusal of the penalty order shows that the AO has inadvertently mentioned as under:-

“Order u/s 271(1)(B)of the Income Tax Act, 1961.”

7. Further, in this case, the assessment order has been passed u/s 143(3) of the IT Act. The assessee in his written submissions, relying on various decisions, has mentioned that where assessment order has ultimately been passed u/s 143(3) of the Act, penalty levied u/s 271(1)(b) of the IT Act has been deleted. Since, in the instant case, the assessee was not represented before the CIT(A) for which he has passed an ex parte order confirming the penalty levied by the AO, therefore, considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the CIT(A) with a direction to decide the issue afresh and in accordance with law after giving one more opportunity of being heard to the assessee. The assessee is also hereby directed to appear before the CIT(A) without seeking any adjournment under any pretext failing which the ld.CIT(A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court at the time of hearing itself, i.e., on 20.04.2022.

SD/-

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

SD/-

(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 20<sup>th</sup> April, 2022.

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Copy forwarded to

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi