

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'H': NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.4576/DEL/2019
[Assessment Year: 2014-15]**

Jyoti, C/o-Sumer Garg & B Co. E- 501A, GDITL, Northex Tower, Plot No.A-9, Netaji Subhash Place, Pitampura, Delhi-110034	Vs	Income Tax Officer, Ward-41(4), Room No.1911, E-2 Bloc, Civic Centre, JLN Marg, New Delhi-110002
PAN-AGQPJ2216D		
Assessee		Revenue

Assessee by	Sh. S.C. Garg, CA
Revenue by	Ms. Anupama Singla, Sr. DR

Date of Hearing	07.06.2022
Date of Pronouncement	24.06.2022

ORDER

PER SHAMIM YAHYA, AM,

This appeal by the assessee is directed against the order of the Ld. CIT(A)-14, New Delhi, dated 29.04.2019 pertaining to Assessment Year 2014-15.

2. The only issue raised is that the Ld. CIT(A) erred in confirming the penalty of Rs.80,000/- u/s 271(1)(b) of the Act.

3. In this case the assessment was framed u/s 144 of the Act. The Assessing Officer noted that out of 9 notices, there was compliance of only one notice and hence on account of eight defaults, penalty u/s 271(1)(b) of Rs.80,000/- was imposed.

4. Against the above order, the assessee appealed before the Ld. CIT(A).

5. There was delay in filing of the appeal of 11 months before the ld. CIT(A). The Ld. CIT(A) condoned the delay of 11 months by accepting the plea that the penalty order was e-mailed to the tax counsel and not to the assessee and that copies were sent to address of the assessee and they were also not received as the business has closed. However, after accepting the above explanation, the Ld. CIT(A) proceeded to reject the assessee's submission that the notices in connection with which the penalty has been levied were also not served upon the assessee as there was change in the assessee's address. The Ld. CIT(A) took adverse inference that the assessee had not intimated the change of address and hence he declined the explanation of the assessee.

6. Now, before us, the assessee has filed an affidavit submitting that there was change in the assessee's address and that she is lady and her taxation affairs were looked after by brother in law Sh. Ravi Bansal and CA Mr. Ankur Aggarwal. That she was under bona fide belief that tax matters were attended by them.

7. Upon careful consideration, in our considered opinion and in view of the aforesaid background, the conduct of the assessee cannot be said to be contumacious to warrant the levy of penalty. Moreover, when the same reason of non-receipt of notices is being accepted by the Ld. CIT(A) in condoning the delay, we find that there is no reason why the

same cannot be accepted to the non-receipt of notice issued with respect to penalty issue. Hence, in our considered opinion, the assessee's conduct is not contumacious. Accordingly, we hold that penalty u/s 271(1)(b) is liable to be deleted and the same is directed to be deleted as such.

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

Order pronounced in the open court on 24.06.2022.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Delhi; Date 24.06.2022.

Shekhar,

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi