

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA NOS. 1208 TO 1212/MUM/2022 : A.Ys : 2015-16 TO 2019-20**

Hardik Shah Vs. Dy. Commissioner of Income  
Flat No. 502, Sterling Heritage, Tax, Central Circle – 8(1),  
Plot No .388, Shankar Mattam Road, Mumbai. (Respondent)  
Matunga (C), Mumbai 400 019.  
**PAN : AVQPS5161F (Appellant)**

**Appellant by : None**  
**Respondent by : Mahita Nair**

**Date of Hearing : 29/06/2022**  
**Date of Pronouncement : 29/06/2022**

**ORDER**

**PER BENCH :**

The aforesaid appeals have been filed by the assessee against separate impugned orders of even date, 28.03.2022, passed by learned Commissioner of Income Tax (Appeals)-50, Mumbai (in short 'CIT(A)') in relation to proceedings under Section 271(1)(b) of the Income Tax Act, 1961 (in short 'the Act') by levying penalty of Rs.10,000/-.

2. Facts in brief emanating from the appellate order is that in the course of assessment proceedings under Section 153A/143(3) of the Act for the aforesaid assessment years, the Assessing Officer had issued notices under Section 142(1) on 09.01.2021 and 01.02.2021 asking for various details from the assessee. The notice was served electronically and according to the

Assessing Officer, assessee had filed part submissions or has not filed detailed submissions to explain the case. While levying penalty the Assessing Officer has observed as under :-

*“3. Despite issuing penalty show cause for non-compliance the assessee has not filed all points/questionnaire asked in notice u/s 142(1) of the I.T. Act. Therefore, the assessing officer has left with no other option but to levy the penalty in this case. As the assessee has not bothered to respond the notice(s) issued in this case therefore, the undersigned assessing officer is satisfied that this is a fit case for levy of penalty u/s 271(1)(b) and hereby levy a penalty of Rs.10,000/- u/s 271(1)(b) for failing in complying with notice(s) issued under section 142(1) of the Income Tax Act, 1961. issue. Demand notice and Challan accordingly.”*

3. The Id. CIT(A) has confirmed the penalty simply stating that the appellant-assessee has failed to avail the opportunity of being heard offered by the Assessing Officer and assessee cannot be said to be aggrieved person in terms of provisions of Section 246A of the Act.

4. A perusal of the submissions which was rendered before the Assessing Officer and Id. CIT(A), as incorporated in the appellate order, shows that the assessee had stated that, due to pandemic situation of Covid-19, the movement and attendance of the staff of authorised representatives and Chartered Accountant's was seriously affected. There was practical difficulty in all these appeals as either the staff or their family members were infected with Covid and, therefore, even if part compliance was made, it was not a case for levy of penalty under Section 271(1)(b) of the Act.

5. Once the assessee has given such a reason and during that time the entire country was going through the pandemic situation of Covid-19 restrictions and despite that, assessee has made part compliance and later on, assessment has been completed under Section 153A/143(3) of the Act,

then we do not find any reason as to why such a harsh step of initiating and levying of penalty under Section 271(1)(b) of the Act should be imposed for part non-compliance. In fact, the Hon'ble Supreme Court taking cognisance of the pandemic situation had extended the time limit from 15.03.2020 till 28.02.2022 though for the purpose of limitation. Now, the Assessing Officer is alleging that the assessee did not fully comply with notices dated 09.01.2021 and 01.02.2021 and even the Id. CIT(A) did not find it to be reasonable cause, which in our opinion is a too stringent view under these circumstances. Accordingly, we hold that there was sufficient reasonable cause within the ambit and scope of Section 273B of the Act and, therefore, penalty levied under Section 271(1)(b) of the Act of Rs.10,000/- in all the assessment years is directed to be deleted.

6. In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court on 29.06.2022.

Sd/-  
**(GAGAN GOYAL)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai, Date : 29.06.2022

\*SSL\*

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "D" Bench, Mumbai
- 6) Guard file

By Order

Asstt. Registrar/Sr. Private Secretary  
I.T.A.T, Mumbai