

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "C", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

Sl. No.	ITA No.	Name of Appellant	Name of Respondent	Asst. Year
1	324/PUN/2022	B. U. Bhandari Auto Pvt. Ltd., A3, Abhimanshree Society, Baner Road, Pashan, Pune-411008. PAN : AAACB7289H	ACIT, Central Circle-2(4), Pune.	2017-18
2	359/PUN/2022	M/s. Bhimashankar Developers, 1182, First Floor, Above HDFC Bank, FC Road, Shivajinagar, Pune- 411005. PAN : AAKFB4859Q	ACIT, Central Circle-2(4), Pune.	2017-18
3	360/PUN/2022	B. U. Bhandari Real Estates, 1182, First Floor, Above HDFC Bank, FC Road, Shivajinagar, Pune- 411005. PAN : AAGFB9522L	ACIT, Central Circle-2(4), Pune.	2017-18
4	361/PUN/2022	Anuj Maneklal Bhandari, 1182, First Floor, Above HDFC Bank, FC Road, Shivajinagar, Pune- 411005. PAN : AAQPB3891A	ACIT, Central Circle-2(4), Pune.	2017-18

Assessee by : None
Revenue by : Shri Suhas Kulkarni

Date of hearing : 20.12.2022
Date of pronouncement : 22.12.2022

आदेश / ORDER

PER INTURI RAMA RAO, AM:

These are the appeals filed by the different assesseees directed against the separate orders of the Id. CIT(A)-12, Pune [‘the CIT(A)’] dated 29.04.2022 for the assessment year 2017-18 respectively confirming the penalty u/s 272A(1)(d) of the Income Tax Act, 1961 (‘the Act’).

2. Since the identical facts and common issues are involved in all the above captioned four appeals, we proceed to dispose of the same by this common order.

3. For the sake of convenience and clarity, the facts relevant to the appeal in ITA No.324/PUN/2022 for the assessment year 2017-18 are stated herein.

ITA No.324/PUN/2022, A.Y. 2017-18 :

4. Briefly, the facts of the case are that the appellant is a company incorporated under the provisions of the Companies Act, 1956. The Return of Income for the assessment year 2017-18 was filed on 20.09.2017 declaring total income of Rs.4,13,19,470/-. The said return of income was taken up for scrutiny under CASS and, subsequently, a notice u/s 143(2) dated 09.08.2018 was issued which was duly served on the assessee. Subsequently, notice u/s

142(1) along with questionnaire was issued on 04.02.2019. Subsequently, on change of incumbent, another notice u/s 142(1) along with questionnaire was issued on 05.09.2019. On receipt of the said notice, the appellant sought time to comply with the notice u/s 142(1) by letter dated 20.09.2019. The Assessing Officer had issued a show cause notice on 23.10.2019 calling upon the appellant to explain as to why the penalty should not be levied u/s 272A(1)(d) of the Act. However, the appellant also furnished the details called for on 04.11.2019. In the circumstances, the Assessing Officer had levied a penalty of Rs.10,000/- for non-compliance of notice issued u/s 142(1) of the Act.

Even on appeal before the ld. CIT(A), the ld. CIT(A) confirmed the levy of penalty, as the appellant had failed to explain the reasons for non-compliance of notice u/s 142(1) of the Act.

5. Being aggrieved, the appellant is in appeal before us in the present appeal.

6. We have carefully gone through the impugned orders and find that on receipt of notice u/s 142(1) dated 05.09.2019, the appellant sought time for 15 days to file the required details and the requisite details were filed on 04.11.2019. From the material on record, it appears that when the appellant sought time to file the details, the

said application was not disposed of by the Assessing Officer either rejecting the said application or granting time. We also find that ultimately the assessment was completed by the Assessing Officer u/s 143(3) of the Act accepting the returned income. Thus, it will conclusively prove that no prejudice was caused to the Assessing Officer on account of non-complying with the notice u/s 142(1) issued on 05.09.2019 and inaction of the Assessing Officer on the adjournment petition moved by the assessee would also enable the appellant to believe that the time to comply with the extension of time as prayed was granted. Therefore, in the circumstances, we are of the considered opinion that it cannot be said that the appellant is guilty of contumacious conduct to comply with the notice u/s 142(1) of the Act. Thus, it is not a fit case for levy of penalty u/s 272A(1)(d) of the Act. Accordingly, we direct the Assessing Officer to delete the penalty of Rs.10,000/-. Hence, the ground of appeal raised by the assessee in the present appeal stands allowed.

7. In the result, the appeal filed by the assessee in ITA No.324/PUN/2022 for A.Y. 2017-18 stands allowed.

ITA Nos.359, 360 & 361/PUN/2022, A.Y. 2017-18 :

8. Since the facts and issues involved in all the above captioned four appeals are identical, therefore, our decision in ITA

No.324/PUN/2022 for A.Y. 2017-18 shall apply *mutatis mutandis* to the remaining three appeals of the different assesseees in ITA Nos.359, 360 & 361/PUN/2022 for A.Y. 2017-18 respectively. Accordingly, the remaining three appeals of the different assesseees in ITA Nos.359, 360 & 361/PUN/2022 for A.Y. 2017-18 are allowed.

9. To sum up, all the above captioned four appeals of the different assesseees stand allowed.

Order pronounced on this 22nd day of December, 2022.

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 22nd December, 2022.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-12, Pune.
4. The Pr. CIT Central, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "C" बेंच, पुणे / DR, ITAT, "C" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.