

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT  
(Conducted through E-Court at Ahmedabad)**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND  
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

**ITA No.220/RJT/2022  
Assessment Year: 2010-11**

Kiranben Kishorbhai Andipara, vs. The Income Tax Officer,  
Parishram, Ward – 1(2)(1), Rajkot.  
Shantinagar,  
Gundala Road,  
Rajkot - 360 311.  
[PAN – AJLPA 8517 E]

**ITA No.221/RJT/2022  
Assessment Year: 2010-11**

Kishorbhai Chhaganbhai Andipara vs. The Income Tax Officer,  
Parishram, Ward – 1(1)(1), Rajkot.  
Shantinagar,  
Gundala Road,  
Rajkot - 360 311.  
[PAN – AJLPA 8514 H]  
(Appellants) (Respondents)

Appellant by : Shri Mehul Ranpura, AR  
Respondent by : Shri B.D. Gupta, Sr. DR

Date of hearing : 17.01.2023  
Date of pronouncement : 31.01.2023

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER :**

These two appeals are filed by the assesseees against two separate orders dated 31.07.2021 & 20.08.2021 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Years 2010-11 for both the appeals.

2. The assesseees have raised identical grounds in both the appeals and hence grounds raised in ITA No.220/RJT/2022 are being reproduced hereunder:

“1. *The grounds of appeal mentioned hereunder are without prejudice to one another.*

2. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred as to the CIT(A)) erred on facts as also in law in dismissing the appeal ex-parte.*
3. *The Ld. CIT(A) has erred in law as also on facts in confirming penalty of Rs.30,000/- levied u/s.271(1)(b) of the Act. The penalty levied u/s. 271(1)(b) of the Act is totally unjustified on facts as also in law may kindly be deleted.*
4. *The Ld. CIT (A) ought to have deleted the penalty of Rs.30,000/- levied u/s.271(1)(b) of the Act.”*

3. There is a delay in filing the appeal of 281 days which has been explained by the assessee through affidavit and it appears to be genuine that as mistakenly the email message was stored in junk mail. The delay is condoned.

4. Taking up first, ITA No.220/RJT/2022, as both the appeals have identical facts. During the course of assessment proceedings under Section 147 of the Income Tax Act, 1961, the assessee was issued notice under Section 142(1) of the Act/show cause on various dates and was served upon her through Registered Post acknowledgement Due requesting to file certain details. The assessee did not file any statutory reply and therefore, the Assessing Officer finalised the assessment order ex-parte under Section 144 read with Section 147 of the Act. Subsequently, the Assessing Officer initiated penalty under Section 271(1)(b) of the Act. The Assessing Officer imposed penalty of Rs.10,000/- for default.

5. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

6. The Ld. AR submitted that the assessee is a Senior Citizen having income below the maximum not chargeable to tax and as such did not file any return of income. She is a house wife and engaged in the agriculture field and for just name sake she was Director in the company named M/s. Everest Plastic Pvt. Ltd. Since she was not conversant with the Income Tax matters, the notices received in turn handed over to her husband who has also received such notices which in turn hand over to the Accountant of the company without giving any instruction and as such the same

were remained unattended. The Ld. AR relied upon the Hon'ble Apex Court decision in the case of Hindustan Steel Limited vs. State of Orissa, 83 ITR 26.

7. The Ld. DR relied upon the Assessment Order, penalty order and the order of the CIT(A).

8. Heard both the parties and perused all the relevant material available on record. The assessee stated to be is a house wife and engaged in the agriculture field but she is also Director in the company named M/s. Everest Plastic Pvt. Ltd. Merely being an individual who would have not known about the intricacy of law relating to Income Tax matters, penalty etc. but being a Director of the company the assessee is responsible for each and every statutory notice whether it related to Income Tax or other State or Central laws. The assessee did not pursue the concerned Accountant despite receiving notices. Thus, the deliberate act of not pursuing the notices will not escape assessee's responsibility. Therefore, the imposition of penalty under Section 271(1)(b) of the Act is justifiable. The Ld. AR submitted that the penalty for each default is not justifiable but in the present case, the assessee being the Director of the Company, the Assessing Officer rightly imposed the penalty for each default. Thus, appeal of the assessee being ITA No.220/RJT/2022 is dismissed.

9. As regards the ITA No.221/RJT/2022, there is also delay of 281 days which is condoned. The issue related to penalty is identical to that of the case of wife of the assessee herein. Hence, this appeal of the assessee is also dismissed.

10. In the result, both the appeals are dismissed.

Order pronounced in the open Court on this 31<sup>st</sup> January, 2023

Sd/-  
**(WASEEM AHMED)**  
Accountant Member

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 31<sup>st</sup> day of January, 2023**

**PBN/\***

*Copies to:*

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

*By order*

*Assistant Registrar  
Income Tax Appellate Tribunal  
Rajkot Bench, Rajkot*