

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.4619/DEL/2019
Assessment Year 2010-11

Abhi Impex Pvt. Ltd., 299, SFS Flats,Block-E, Sector-18, Rohini, Delhi.	vs.	ITO Ward-1(2), New Delhi.
TAN/PAN: AAECA0022H (Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Shri Kanv Bali, Sr.DR
Date of hearing:	15 03 2023
Date of pronouncement:	20 03 2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal arises out of penalty of Rs.10,000/- imposed by the Assessing Officer under Section 271(1)(b) of the Act for the concerning Assessment year 2010-11 and confirmed by the CIT(A).

2. As per the order passed under Section 271(1)(b), the Assessing Officer imposed penalty of Rs.10,000/- in exercise of power under Section 271(1)(b) of the Act concerning Assessment Year 2010-11 on the ground that the assessee has failed to comply with notices issued under Section 142(1) one after the other and constraining the Assessing Officer to pass best judgment order under Section 144 of the Act. A penalty of Rs.10,000/- was imposed for non-compliance of notices issued in the course of the assessment proceedings.

3. Aggrieved by the imposition of penalty, the assessee preferred appeal

before the CIT(A). However, the CIT(A) refused to entertain the appeal of the assessee on the ground that there is delay of 66 days in filing the appeal before him without showing any reasonable cause. The CIT(A) relied upon the decision in the case of *Gopal Films vs. CIT (1999) 105 ITR 364 (Kar)* and plethora of other judgments to hold that the delay cannot be condoned without showing circumstances for delay.

4. Further aggrieved the assessee filed appeal before the ITAT.

5. When the matter was called for hearing, none appeared for the assessee. It is seen from the record that the matter was placed for hearing on three occasions prior to this date of hearing. Consequently, we are constraint to proceed with the matter *ex-parte*.

6. In the absence of any explanation to justify the grounds of appeal, we are in no position to interfere with the action of the CIT(A). While the CIT(A) has justified its action for refusing to exercise its discretion in favour of the assessee seeking condonation of delay, the assessee has failed to justify the delay in filing the appeal. Coupled with this, the penalty has been imposed for non-compliance of statutory notices in the assessment proceedings. Thus, it appears that the assessee is nonchalant in compliance of the statutory notices and timeline provided in the Act. Hence, we see no reason to disturb the order of the CIT(A).

7. In the result, the appeal of the assessee is dismissed *ex-parte*.

Order was pronounced in the open Court on 20.03.2023.

Sd/-

**[CHALLA NAGENDRA PRASAD]
JUDICIAL MEMBER**

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**

DATED: **03.2023**

Prabhat