

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.7314/Del/2019  
Assessment Year: 2010-11

<b>Jai Kuwar VPO Jatheri, Sonipat Haryana-131001 PAN No.AODPJ4268E (APPELLANT)</b>	<b>Vs</b>	<b>ITO Ward- 2 Sonipat (RESPONDENT)</b>
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Appellant by	None
Respondent by	Sh. Anuj Garg, Sr. DR

Date of hearing:	23/03/2023
Date of Pronouncement:	23/03/2023

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the CIT(A), Rohtak dated 17.06.2019 pertaining to A.Y.2010-11.

2. The solitary grievance of the assessee is that the CIT(A) erred in confirming the levy of penalty of Rs.10,000/- u/s. 271 (1) (b) of the Act.

3. None appeared on behalf of the assessee inspite of several notices, therefore, we decided to proceed exparte. The DR was heard at length. Case records carefully perused.

4. The penalty has been levied for non appearance before the AO. Further, a perusal of the assessment order show that Sh. Jai Kunwar attended the assessment proceedings from time to time and submitted his reply. This is mentioned at para 2 of page 1 of the assessment order. It appears that some of the notices remained un-responded which prompted the AO to frame the assessment exparte. But since the assessee had appeared during the course of the assessment proceedings we are of the considered view that this is not a fit case for the levy of penalty u/s. 271 (1)(b) of the Act. The AO is directed to delete the same. The appeal of the assessee is accordingly allowed.

5. Decision announced in the open court on 23.03.2023.

Sd/-

**[ANUBHAV SHARMA]**  
**JUDICIAL MEMBER**

Dated: .03.2023

\*Neha\*

Copy forwarded to:

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

Sd/-

**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Asst. Registrar  
ITAT, New Delhi