

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "H" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
DR. BRR KUMAR, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A No.1698/Del/2021  
निर्धारणवर्ष/Assessment Year:2011-12

Vaibhav Kumar 322, V & Post - Garhi, Hasanpur Lohari, Main Bazar, Shamli, Uttar Pradesh.	<u>बनाम</u> Vs.	ITO Ward 1(5) Shamli.
<b>PAN No. BQMPK7241N</b>		
अपीलार्थी <b>Appellant</b>		प्रत्यर्थी/ <b>Respondent</b>

<b>Assessee by</b>	<b>None</b>
<b>Revenue by</b>	<b>Shri B.S. Anand, Sr. DR</b>

सुनवाईकीतारीख/ <b>Date of hearing:</b>	<b>11.04.2023</b>
उद्घोषणाकीतारीख/ <b>Pronouncement on</b>	<b>25.04.2023</b>

**आदेश /O R D E R**

**PER C.N. PRASAD, J.M.**

This appeal is filed by the Assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 30.09.2021 for the AY 2011-12 in sustaining the penalty levied u/s 271(1)(b) of the Act. In spite of issue of several notices to the assessee, none appeared on behalf of the assessee nor any adjournment was sought. The notice issued through speed post with

acknowledgement due fixing the date of hearing as 11.04.2023 has been returned un-served by the postal authorities with the endorsement that the address is incomplete. However, we noticed that the notice was sent to the assessee to the address given in Form 36 for sending notices to the assessee. We further noticed that the Counsel for the assessee filed written submissions stating that Assessing Officer levied penalty u/s 271(1)(b) of the Act for the default of five notices and he has not specified for which default penalty is levied and, therefore, placing reliance on the decision of the Jodhpur Bench of the Tribunal in the case of Babulal Vs. DCIT [91 TTJ 368], it is the contention of the Ld. Counsel that since the penalty was levied without pointing out for which default the same cannot be levied for several defaults mentioned in the penalty notice.

2. Ld. DR submits that the assessee failed to comply with various notices on several occasions as recorded by the Assessing Officer in the penalty order and ultimately the penalty was levied for non compliance of notice u/s 142(1) of the Act dated 01/10/2018 as can be seen from the penultimate para of the penalty order. Therefore, Ld. DR submits that the Assessing Officer has rightly imposed penalty u/s 271(1)(b) of the Act.

3. Heard the Ld. DR, perused the written submissions filed by the Ld. Counsel for the assessee.

4. On perusal of the penalty order, we noticed that several notices were issued u/s 142(1) & 142(1)/144 and assessee has not complied with the said notices. The Assessing Officer levied penalty of Rs.10,000/- u/s 271(1)(b) of the Act for non-compliance of notice u/s 142(1)/144 dated 01/10/2018 which is clearly mentioned in the penalty order. Therefore, the contentions of the Counsel in the written submissions are *devoid* of merits. Further it is noticed that the assessee has not furnished any reply as to why the notices issued by the Assessing Officer was not complied and also there is no response for the show cause notice issued by the Assessing Officer as to why the penalty should not be levied u/s 271(1)(b) of the Act. There is no compliance by the assessee before the Ld.CIT(Appeals) and there is no compliance even before us. Therefore, in the absence of any justifiable explanation and reasonable cause from the assessee, we uphold the penalty levied u/s 271(1)(b) of the Act by the Assessing Officer and sustain the order of the Ld CIT(Appeals).

5. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 25.04.2023

Sd/-  
(BRR KUMAR)  
ACCOUNTANT MEMBER

Sd/-  
(C.N. PRASAD)  
JUDICIAL MEMBER

Dated: 25.04.2023

\*Kavita Arora, Sr. P.S.

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard  
file of ITAT.

**By order**

**Assistant Registrar, ITAT: Delhi Benches-Delhi**