

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B": NEW DELHI  
BEFORE Shri C.M. Garg, Judicial Member  
and  
Shri M. Balaganesh, Accountant Member**

ITA No. 5459/Del/2019  
(Assessment Year: 2010-11)

Sobh Ram, S/o. Dalip Singh, H. NO. 54, Village & Tehsil-Israna, Panipat, Haryana-132103 (Appellant) <b>PAN: ARKPR1660E</b>	Vs. ITO, Ward-4, Panipat  (Respondent)
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Assessee by :	Sh. Satyam Aneja, Adv
Revenue by:	Ms. Maimun Alam, Sr. DR

Date of Hearing	26/04/2023
Date of pronouncement	27/04/2023

**ORDER**

**PER C. M. GARG, J. M.:**

1. This appeal has been preferred by the assessee against the order of the Id. CIT(A), Karnal, dated 02.05.2019 for AY 2010-11.

2. The assessee has raised the following grounds of appeal:-

*"1. That on the facts & in the circumstances of the case penalty of Rs. 10,000/- for the alleged default of the provisions of section 271(1)(b) of the IT Act 1961 has wrongly & arbitrarily been imposed which is unjustified and not called for.*

*2. That the appellant has complied fully and truly to all proceedings and assessment was made u/s 143(3)/147 of the IT Act, 1961. Ld CIT(A) has ignored the facts and erred in confirming the order."*

3. The Id counsel for the assessee submitted that the assessee is a farmer and also doing some small plots sales purchase in the vicinity of Lal Dora of the Village and holding property Business License No. 1/2010 dated 08.03.2010. The Id counsel submitted that the AO imposed penalty of Rs. 10,000/- for the alleged default of provisions of

section 271(1)(b) of the Income Tax Act, 1961 wrongly and arbitrarily imposed which is quite unjustified and not called for. The Id counsel submitted that during the assessment proceedings the assessee complied fully and truly with all directions and notices; and assessment was made u/s 143(3)/ 147 of the Act, therefore, no penalty is leviable on the assessee. The Id counsel submitted that the impugned penalty order may kindly be set aside.

4. Replying to the above, the Sr. Counsel strongly supported the orders of the authorities below and submitted that the assessee did not comply with the show cause notices issues to him dated 17/20.04.2018 but there was no compliance from the assessee.

5. The Id Sr. DR submitted that therefore, penalty order may kindly be upheld.

6. On careful consideration of the above submission, first of all from the operative para 3 of penalty we find that the Id AO has imposed penalty on account of non compliance of statutory notices issued u/s 142(1) of the Act dated 08.08.2017. The copy of the assessment order dated 29.12.2017 clearly reveals that the order has been passed u/s 147/143(3) of the Act in para No. 2, the AO noted that in response to notice u/s 142(1) of the Act along with questionnaire were issued and we find that there is no mentioned of any date of notice. Further, the AO noted that in response to notice u/s 148 the assessee filed return of income and in response to statutory notice Sh. KC Aneja, ITP and Shobh Ram, assessee attended the assessment proceedings from time to time and the case was discussed with them and written reply was filed. Thereafter, the AO noted that findings and observations for framing assessment order and made three additions as per para 4,5,6 of assessment order. We are unable to see any non compliance of notice u/s 142(1) of the Act dated 08.08.2017 by the assessee. In view of the above factual findings, we are inclined to agree with the contentions of the Id counsel of the assessee the assessee has not made any disobedience or non compliance of any notice of the AO

which includes notice dated 08.08.2017. In view of foregoing discussion, we are of the view that penalty order u/s 271(1)(b) of the Act is not leviable on the assessee and therefore, we direct the Id AO to delete the same.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 27/04/2023.

-Sd/-  
**(M. Balaganesh)**  
**ACCOUNTANT MEMBER**

-Sd/-  
**(C. M. GARG)**  
**JUDICIAL MEMBER**

Dated: 27/04/2023  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi