

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : H : DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No.2362/Del/2022
Assessment Year: 2017-18

Agrasar Education Ltd.,
IPSO Legal H-35, 1st Floor,
Jangpura Extension,
New Delhi – 110 014.

Vs ITO,
Ward 1(1),
Faridabad.

PAN: AALCA0777A

(Applicant)

(Respondent)

Assessee by : Shri Dishant Sethi, Advocate
Revenue by : Shri Raghunath, Sr. DR

Date of Hearing : 04.05.2023
Date of Pronouncement : 09.05.2023

ORDER

PER M. BALAGANESH, AM:

This appeal in ITA No.2362/Del/2022 for AY 2017-18 arises out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as 'Id. CIT(A)', in short] in DIN & Order No.ITBA/NFAC/S/250/2022-23/1045445945(1) dated 13.09.2022 against the order of assessment passed u/s 272A(1)(d) of the Income-tax Act, 1961

(hereinafter referred to as 'the Act') dated 31.12.2021 by the National Faceless Assessment Centre, Delhi (hereinafter referred to as 'Id. AO').

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the levy of penalty u/s 272A(1)(d) of the Act in the facts and circumstances of the case.

3. We have heard the rival submissions and perused the materials available on record. We find that pursuant to the return filed by the assessee, the same was selected for scrutiny by the Id. AO. In the course of assessment proceedings, the Id. AO issued notice u/s 142(1) of the Act on 04.10.2019 ensuring compliance of the assessee on 09.10.2019. According to the Id. AO, the said notice was not complied with by the assessee and hence penalty u/s 272A(1)(d) of the Act was levied in the sum of Rs 10,000/-. The assessment was framed u/s 144 of the Act on 12.11.2019 determining total income of the assessee at Rs 46,02,740/- as against the returned income of Rs 1,02,740/-.

4. Before the Id. CIT(A) NFAC, it was submitted that on 09.10.2019, the assessee had sought some time in electronic mode by requesting in income tax portal, to furnish the requisite details as its authorized representative Shri K C Garg was pre-occupied with filing of tax audit returns. Later all the details called for by the Id. AO were duly furnished in the income tax portal in electronic mode on 21.10.2019 . The Id. CIT(A) however observed that no such compliance was made by the assessee and accordingly upheld the levy of penalty u/s 272A(1)(d) of the Act. Aggrieved, the assessee is in appeal before us.

5. We find that the Id. AR had placed on record the evidence of having sought on adjournment in income tax portal on 09.10.2019 from the Id. AO by stating the reason that its authorized representative Shri K C Garg is busy with filing of tax audit returns and information called for require some time for compilation. The

evidence in this regard is placed on record by the Id. AR. Moreover, the assessee had also furnished the complete details called for on 21.10.2019 before the Id. AO. Hence we hold that the assessee had indeed complied with the statutory notice u/s 142(1) of the Act on 09.10.2019 by seeking adjournment and later furnishing the requisite details on 21.10.2019. Hence there cannot be any levy of penalty u/s 272A(1)(d) of the Act for non-compliance to statutory notice dated 04.10.2019. Accordingly, the ground raised by the assessee is allowed.

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

Order pronounced in the open court on 09.05.2023

Sd/-

(C.M. GARG)
JUDICIAL MEMBER

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 09th May, 2023.

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi