

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.83/Asr/2023
Assessment Year: 2011-12**

Smt. Inderjit Kaur Shah, 3069-B, Third Floor, Ajanta Enclaves, Sector-51D, Chandigarh. [PAN:-CDSPS7566J] (Appellant)	Vs.	ITO, Ward 2(2), Jalandhar. (Respondent)
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Appellant by	Sh. Rahul Gupta, CA.
Respondent by	Sh. Radhey Shyam Jaiswal, Sr. DR

Date of Hearing	03.07.2023
Date of Pronouncement	17.07.2023

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal of the assessee was filed against the order of the Id. Commissioner of Income Tax (Appeals), NFAC, Delhi,[in brevity the ‘CIT (A)’],order passed u/s 250of the Income Tax Act 1961, [in brevity ‘the Act’] for

A.Y. 2011-12. The impugned order was emanated from the order of the Id. Income Tax Officer Ward 2(2) Jalandhar, order passed u/s 271(1)(b) of the Act.

2. The assessee has taken the following grounds:

“1. Because, the learned Commissioner of Income-tax (Appeals) erred in law as well as on facts while making the decision regarding the penalty order of the AO passed u/s 271 (1)(b) of the Income-tax Act, 1961 that the AO has considered the submissions of the assessee and rejected after a detailed discussion on each & every point raised, but in fact, no submissions has been made before the learned AO.

2. Because, the assessee was unaware of the fact that the Income Tax Proceedings has been initiated by the Income Tax Department from the very inception and has intimated the same in written submissions being filed before the learned Commissioner of Income-tax (Appeals) against order u/s 271(1)(b) of the I.T. Act, 1961.

3. Because the assessment order was passed ex-parte without any awareness to the assessee.

4. Because it will result in grave injustice to the appellant if deprived of an opportunity to be heard in the matter.

5. The assessee craves leave to add / alter any of the grounds of appeal before or at the time of hearing. “

3. Brief fact of the case is that the assessee's case was processed and the notice u/s 142(1) on dated 26.10.2018 was served. The said notice was not complied by the assessee, so, the notice u/s 271(1)(b) dated 03.12.2018 was issued due to non-compliance of the notice u/s 142(1) of the Act. But on the date of hearing no compliance was made and none was appeared before the revenue. So, the ld. AO passed the penalty order and levied penalty u/s 271(1) (b) amount of Rs.10,000/-. Aggrieved assessee filed an appeal before the ld. CIT(A). The ld. CIT(A) upheld the order of the ld. AO. Being aggrieved, the assessee filed an appeal before us.

4. During hearing the ld. AR filed written submission which is kept in the record. The ld. AR placed that there is a specific cause and inability for the assessee for non-compliance the notice u/s 142(1). The ld. AR had made argument and placed the reason in para 6 and 7 of APB which are reproduced as below:

“6. In the meantime, the AR of the assessee, i.e., CA. Rahul Gupta who handles the current various compliances of the assessee in India has received the email from the learned AO citing the Subject as “Calling for Information u/s 133(6) of the Income Tax Act in the case of Smt. Inderjit Kaur Shah for the AY 2011-12” to the registered Secondary Email ID at ITD Portal of the Assessee. Due to often non-availability of the Appellant as she resides in the United States, the AR has

updated his official Email ID for Tax Compliances at the ITD portal of the appellant.

7. In line with the compliance to Notice u/s 133(6), the AR has filed the response but couldn't approach the assessee, due to change of contact details in the United States. The AR also couldn't make representation before the learned AO due to non-availability of Power of Attorney to represent. Apart from this, the mother of AR CA. Rahul Gupta also expired on 25.08.2018, due to which the AR of the assessee couldn't make extensive efforts to approach the assessee and represent accordingly before the learned AO to make appropriate submission. Later, the learned AO has passed the Assessment order u/s 144 r.w.s. 147 of the Act."

5. The ld. DR vehemently argued and fully relied on the order of the revenue authorities.

6. We heard the rival submission and relied on the documents available in the record. The assessee has explained the reasonable cause for noncompliance of the notice u/s 142(1). The assessee was incapable to follow the notice and to appear before the ld. AO. The death of the AR's mother is also valid reason for noncompliance of the notice, issued by the revenue. We accept the reasonable

cause for nonappearance before the ld. AO. Accordingly, the penalty u/s 271(1)(b) is quashed.

7. In the result, the appeal of the assessee bearing **ITA No. 83/Asr/2023** is allowed.

Order pronounced in the open court on 17.07.2023

Sd/-
(Dr. M. L. Meena)
Accountant Member

Sd/-
(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order