

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

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

**आ.अ.सं./I.T.A Nos.2707 & 2708/Del/2019  
निर्धारणवर्ष/Assessment Years:2015-16 & 2014-15**

|   |                     |                                 |
|---|---------------------|---------------------------------|
| Ram Kumar Dhiman<br>B-145, Opp. Nehru Place,<br>Kalkaji, New Delhi.<br>PAN No. AIEPD2121R | <b>बनाम<br/>Vs.</b> | AO<br>Ward 26(4),<br>New Delhi. |
| <b>अपीलार्थी Appellant</b>  |                     | <b>प्रत्यर्थी/Respondent</b>    |

|                    |   |
|--------------------|---|
| <b>Assessee by</b> | <b>Shri Shyam Sunder Mangla, CA</b>     |
| <b>Revenue by</b>  | <b>Shri Vivek Kumar Upadhyay, Sr.DR</b> |

|                                  |            |
|----------------------------------|------------|
| सुनवाईकीतारीख/ Date of hearing:  | 22.08.2023 |
| उद्घोषणाकीतारीख/Pronouncement on | 25.08.2023 |

**आदेश /O R D E R**

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

These two appeals are filed by the assessee against the orders of the Ld. Commissioner of Income Tax (Appeals)-27 & 30, New Delhi dated 06.02.2019 and 30.01.2019 for the assessment years 2014-15 & 2015-16 respectively in sustaining the penalty levied u/s 271(1)(b) of the I.T. Act.

2. In this case penalty was levied for non-compliance of the notices issued u/s 142(1) of the Act which was sustained by the

Ld.CIT(Appeals). The Ld. Counsel for the assessee submits that the assessment in the case of the assessee was completed u/s 143(3) of the Act both for the assessment years 2014-15 and 2015-16 by orders dated 30.12.2016 and 25.12.2017. The Ld. Assessing Officer is satisfied with the information provided and there was no direction in the assessment order for initiation of penalty u/s 271(1)(b) of the Act and, therefore, no justification for levying penalty for non-compliance of notice u/s 142(1) of the Act. Reliance was placed on the decision of the Delhi Bench in the case of DLF Commercial Enterprises vs. ACIT 131 taxmann.com 305.

3. Ld. DR supported the orders of the CIT(A).

4. Heard rival submissions. On perusal of the assessment orders for the assessment years 2014-15 and 2015-16, we noticed that assessments were completed u/s 143(3) of the Act. We also noticed from the assessment orders that there is no initiation of penalty proceedings u/s 271(1)(b) of the Act by the Assessing Officer in the assessment orders passed, therefore, it is apparent that the Assessing Officer is satisfied with the information furnished by the assessee based on which the assessment was completed. There was no initiation of penalty for levy u/s 271(1)(b) for non-compliance of any notice in the assessment order. The Tribunal considered the

situation where the Assessing Officer completed the assessment u/s 143(3) and the Assessing Officer levied penalty u/s 271(1)(b) for non-compliance of notice u/s 142(1) in the case of DLF Commercial Enterprise vs. ACIT (supra) and it has been held that levy of penalty u/s 271(1)(b) of the Act was not justified and had to be cancelled for the reason that Assessing Officer was on whole satisfied with overall compliances made by the assessee during assessment proceedings before Assessing Officer and the assessment was completed u/s 143(3) and not u/s 144 of the Act. Following the above decision, we delete the penalty levied u/s 271(1)(b) for both the assessment years under consideration.

5. In the result, appeals of the assessee are allowed.

Order pronounced in the open court on 25.08.2023

**Sd/-**  
**(M BALAGANESH)**  
**ACCOUNTANT MEMBER**

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

Dated: 25.08.2023

*\*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**