

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, 'E': NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND  
Ms. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.2300/DEL/2022  
[Assessment Year: 2017-18]**

M/s Manhar Yarns Pvt. Ltd. IPSO Legal, H-35, 1 <sup>st</sup> Floor, Jangpura Extension, New Delhi-110091	Vs	ITO, Ward-1(5), Faridabad, Haryana-121002
<b>PAN-AAICM8265G</b>		
Assessee		Revenue

Assessee by	Sh. Shyam Sunder, Adv.
Revenue by	Ms. Anita Meena, Sr. DR

<b>Date of Hearing</b>	<b>04.09.2023</b>
<b>Date of Pronouncement</b>	<b>06.09.2023</b>

**ORDER**

**PER SHAMIM YAHYA, AM,**

This appeal by the assessee is directed against the order of the Ld. National Faceless Appeal Centre (NFAC), New Delhi, dated 25.08.2022 pertaining to Assessment Year 2017-18.

2. The grounds of appeal reads as under:-

*“1. That the NFAC has erred on facts and in law in sustaining the penalty of Rs.10,000/- u/s 272A(1)(d) without providing reasonable and sufficient opportunity of being heard to the appellant which is against the Principle of Natural Justice.*

*2. That the NFAC did not appreciate that assessment in the above case was set aside by Hon'ble ITAT to be passed denovo hence aforesaid penalty becomes infructuous and liable to be quashed.”*

3. Brief facts of the case are that the Assessing Officer levied penalty of Rs.10,000/- u/s 272A(1)(d) of the Act, upon noting that notices u/s

142(1) dated 25.09.2019 and 04.11.2019 were issued to the assessee during the course of assessment proceedings but the assessee did not respond to notices. Against the above order, the assessee appealed before the Ld. CIT(A).

4. The Ld. CIT(A) noted the relevant portion of the submission as under:-

“It is submitted with respect that appellant is a company and for the year under consideration it has filed its return of Income on 10.11.2017 declaring an income of Rs. 64,710/-. A notice us 142(1) dated 25.9.2019 was issued to the assessee. In response, the assessee company filed the financial statements like audit report, balance sheet and profit and loss account and notes to the financial statement. However, the Ld. AO was not satisfied with the response and issued another notice us 4.11.2019 requiring further documents to be furnished. It is submitted that the appellant could not submit the complete information as the assessee could not receive the notice as AR of the assessee was busy in the finalization of the accounts/audit and furnishing of IT to the Income Tax Department as well as annual filing with the Registrar of Companies as enumerated under Companies Act, 2013 and remained occupied upto 30.11.2019. However, by the time. Ld AR could notice to furnish the requisite information, the ITBA e-assessment portal of was closed and the appellant was not allowed to furnish the requisite information. It is further submitted that the assessee could not file a response in due to time to the aforesaid notice because of ill health of the representative of" the assessee. Shri KC Garg. Consequently, a notice u/s 274 r.w.s 272A(1)(d) of the Act was issued on 23.10.2019 for "non-compliance" of the notice u/s 142(1) of the Act.”

5. However, the Ld. CIT(A) was not convinced and dismissed the assessee's appeal.

6. Against this order, the assessee is in appeal before us.

7. We have heard both the parties and perused the record. We find that the plea of the assessee that the assessee's counsel was busy and that the assessee was having health issues has been brushed aside by the Ld. CIT(A). In our considered opinion, the same is reasonable and deserves to be accepted. Accordingly, we direct the Assessing Officer to delete the penalty.

8. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open court on 06<sup>th</sup> September, 2023.

**Sd/-**  
**[ASTHA CHANDRA]**  
**JUDICIAL MEMBER**

**Delhi;** 06.09.2023.

*Shekhar,*

Copy forwarded to:

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

**Sd/-**  
**[SHAMIM YAHYA]**  
**ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, New Delhi