

**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. 202/Asr/2023
Assessment Year: 2012-13**

Sh. Ravinder Sachdeva 341-C, Sultanwind Road, New Pratap Nagar, Amritsar. [PAN:-AMJPS2481A] (Appellant)	Vs.	ITO, Ward-5(4), Amritsar. (Respondent)
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Appellant by	Sh. Munish Arora, ITP.
Respondent by	Smt. Ratinder Kaur, Sr. DR.

Date of Hearing	31.08.2023
Date of Pronouncement	13.09.2023

ORDER

Per: Anikesh Banerjee, JM:

The instant appeal of the assessee was filed against the order of the Id. Commissioner of Income Tax (Appeal), NFAC, Delhi, (in brevity 'the CIT (A)') order passed u/s 250 of the Income-tax Act, 1961 (in brevity the Act) for assessment year 2012-13. The impugned order was emanated from the order of the NFAC, Delhi, (in brevity the Id. AO) order passed u/s 271(1)(b) of the Act.

2. The assessee has taken the following grounds:

1. That the Penalty Order passed by the Assessing Officer thereby levying the penalty of Rs.10,000/- u/s 271(l)(b) of the IT Act, 1961 and similarly the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi thereby confirming the penalty levied by the Assessing Officer are both against the facts of this case and are untenable under the law.

2. That no reasonable and proper opportunity of being heard was allowed before levying the penalty u/s 271(l)(b) of the IT Act, 1961. Again, the Ld. CIT(A) has grossly erred in confirming the penalty levied by the AO without affording any opportunity of being heard. As such the order passed by the worthy CIT(A) thereby confirming the penalty of Rs.10,000/- levied by the AO u/s 271(l)(b) is also bad in the eyes of law and the same may be cancelled.

3. That the Ld. CIT(A) has grossly erred in confirming the penalty levied by the AO u/s 271(l)(b). The reply dated 26/02/2021 in response to show cause penalty notice has not been appreciated by the CIT(A). As such the order passed by the CIT(A) is liable to be cancelled.

4. That the Ld. CIT(A) has not appreciated that this case does not fall within the mischief of section 271(l)(b). The AO, if at all, wanted to levy the penalty he should have waited for the decision of appeal by the worthy CIT(A). This was grave injustice which has been done to the assessee. As such the penalty levied by the AO and confirmed by the CIT(A) may kindly be deleted.

5. *That any other ground of appeal which may be argued at the time of hearing of the appeal.”*

3. Brief fact of the case is that the assessment was completed in the impugned assessment year u/s 147 r.w.s. 144 of the Act. For the noncompliance in the assessment proceeding, the Id. AO levied penalty u/s 271(1)(b) amount of Rs.10,000/-. The penalty order was initiated u/s 271(1)(b) r.w.s. 274 of the Act and the penalty amount of Rs.10,000/- was levied against assessee. Aggrieved assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) upheld the order of the Id. AO. Being aggrieved assessee filed an appeal before us.

4. The Id. AR vehemently argued and placed that the quantum order was duly set aside by the bench, so, the penalty u/s 271(1)(b) should be deleted.

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

6. We heard the rival submission and considered the documents available in the record. The Id. CIT(A) had made an observation in para 7.7 which is reproduced as below:

“7.7 Thus, there is nothing on record to suggest that these non-compliances have occurred due to reasons beyond the control of the appellant or there existed any reasonable cause leading to non-compliance. From the perusal of records, it is clear to me that the appellant has demonstrated lackadaisical and very casual

approach towards I.T. proceedings. From the penalty order u/s 271(1) (b) of the Act, it is very clear that the appellant has not taken the statutory notices issued to it with the seriousness and sincerity such notices deserve. Assessment proceedings cannot be left to the unilateral and unjustified decision of the appellant to attend or not to attend the hearing at its whims and fancies.

7.8 The appellant has failed to establish that there actually existed any reasonable and justified reasons for this non-compliance, rather, tried to mislead by creating prima facie false evidences of compliance before me. The Act provides for a penalty of a sum of Rs 10,000/ for failure to comply with a notice u/s 142 of the IT Act and AO was justified in imposing penalty totalling to Rs 10,000/- for defaults made by the appellant of the notices issued.

7.9 In view of the above facts and circumstances, the penalty of Rs 10,000/- is confirmed and appeal is dismissed.

8. The ground of appeal no. 4 states that that any other ground of appeal which may be argued at the time of hearing of the appeal. No such option has been exercised during the appellate proceedings and this ground of appeal is, therefore, academic in nature and considered to be a dismissed ground for statistical purposes.”

6.1 We find that the assessee is remarkably unattended the assessment proceeding and order was passed u/s 144. The assessee explained about the absence during the assessment hearing. But there is no such acceptable reason for non-compliance of notice. We are not intervening in the order of the Id.

CIT(A). Accordingly, the penalty u/s 271(1)(b) amount to Rs. 10,000/- is upheld. The appeal of the assessee is dismissed.

7. In the result, the appeal of the assessee bearing **ITA No. 202/Asr/2023** is dismissed.

Order pronounced in the open court on 13.09.2023

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