

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.As. No.283, 284 & 285/DEL/2023
Assessment Year 2013-14, 2014-15 & 2017-18

Ashish Shukla, A-1/15, Ground Floor, New Kondli, East Delhi, Near Shani Mandir, Delhi - 110096	Vs.	DCIT, Central Circle-XXIX, New Delhi.
TAN/PAN: ATBPK8340F		
(Appellant)		(Respondent)

Appellant by:	Shri Pranshu Goel, CA		
Respondent by:	Shri Kanv Bali, Sr.DR		
Date of hearing:	16	11	2023
Date of pronouncement:	22	11	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeals have been filed at the instance of the assessee against the respective first appellate orders for Assessment Years 2013-14, 2014-15 and 2017-18. The captioned appeals are tabulated hereunder:

Sr. Nos.	ITA Nos.	CIT(A) Order dated	Order dated	Remarks
1.	ITA No.283/Del/2023	CIT(A)-30, New Delhi, order dated 11.11.2022	Order dated 23.02.2021	Penalty order under Section 271(1)(c) of the I.T. Act, 1961
2.	ITA No.284/Del/2023	CIT(A)-30, New Delhi, order dated 31.10.2022	Order dated 23.02.2021	Penalty order under Section 271(1)(c) of the I.T. Act, 1961
3.	ITA No.285/Del/2018	CIT(A)-30, New Delhi, order dated 31.10.2022	Order dated 23.02.2021	Penalty order under Section 270A(9) of the I.T. Act, 1961

2. At the outset, it is noted that there is a delay of 27 days in

filing the appeal for Assessment Years 2014-15 & 2017-18 in ITAs No.284 & 285/Del/2023 for which condonation petitions have been filed by the assessee for admission of belated appeals. The assessee has made out a case that the delay occurred is not intentional or deliberate. The small delay has not caused any prejudice to other side either. Considering the reasons for delay narrated in the respective petitions, we are convinced that sufficient cause for delay in filing the appeals do exist. No *mala fide* can be imputed in the cause narrated. The cause of substantial justice deserves to be preferred over technical considerations in the facts of the present case. We accordingly condone the delay in terms of Section 253(5) of the Act and proceed to dispose of respective appeals on merits.

3. When the matter was called for hearing, the Id. counsel for the assessee made three pronged attack on the respective penalty orders in question. Firstly, the orders in question have been admittedly uploaded unsigned by the Assessing Officer; secondly, such orders have not been delivered at the address of the assessee bearing signature of the Assessing Officer in such orders; and thirdly, the Document Identification Number (DIN) has not been mentioned in any of the three penalty orders giving rise to the present appeal.

4. The Id. DR for the Revenue relied upon the communication dated 18th October, 2023 by the Assessing Officer whereby it is submitted that the order were uploaded without any digital signature but however all the three orders have been signed manually and sent combinedly through speed post with Tracking Id. All the penalty orders sent via speed post were claimed to be duly signed by the Assessing Officer. Also, the DIN for each assessment years were quoted in the intimation letters for penalty. The Id. DR thus submitted that the assessee was intimated on the imposition of penalty vide duly signed orders sent through speed post and the DIN

was also quoted on the separate intimation letter and hence, the Revenue has acted in accordance with law.

5. We have considered the rival submissions and perused the material available on record.

ITA No.283/Del/2023 Assessment Year 2013-14

6. The present appeal relates to imposition of penalty under Section 271(1)(c) amounting to Rs.5,88,737/- for Assessment Year 2013-14. The penalty order under Section 271(1)(c) dated 23.02.2021 does not bear the signature of the Assessing Officer. This fact has not been rebutted on behalf of the revenue. The order uploaded does not bear the signature of AO. The Revenue has also failed to demonstrate that the so called delivery by speed post was actually served on the assessee. In the absence of any tracking report, postal receipt or acknowledgement due, the onus on the Revenue was not discharged that orders have been physically issued under proper signature and was duly served on the assessee. As pointed out on behalf of the assessee, the penalty order also does not bear DIN as mandated in Circular No.19/2019 issued by CBDT dated 14.08.2019. In terms of aforesaid circular, every communication, order, notice etc. issued by the Assessing Officer should have computer generated DIN mentioned on the body of such communication. Paragraph 4 of the said circular provides that any communication which is not in conformity with the aforesaid would be treated as invalid and be deemed to have never been issued. The judgment delivered in the case of *Tata Medical Centre Trust vs. CIT(E) (2022) 144 taxmann.com 431; Ashok Commercial Enterprises vs. ACIT Central Circular (W.P.) No.2595/2021 (Bom.) judgment dated 14.09.2023 and the CIT (International Taxation)-1, New Delhi vs. Brandix Mauritius Holdings Ltd. (2023) (4) TMI 579* vouches the

stance of the assessee. The Co-ordinate Bench of Tribunal in the case of *Sharda Devi Bajaj vs. DCIT, ITA No.3006/Del/2022 order dated 15.11.2023* has taken note of the view echoed by various High Courts with regard to mandatory requirement mentioning DIN. In the absence of the DIN in the penalty order, the proposition laid down in the aforesaid judgment shall apply *mutatis mutandis*. Hence, the penalty order dated 23.02.2021 is rendered *non-est* for both the reasons independently; (i) the penalty order unsigned and any signed copy not delivered to assessee and; (ii) the penalty order issued without any DIN.

7. For the aforesaid reasons, the penalty order in question relevant to Assessment Year 2013-14 stands quashed.

8. In the result, the appeal of the assessee in ITA No.283/Del/2013 relevant to Assessment Year 2013-14 stands allowed.

ITA No.284/Del/2023 Assessment Year 2014-15.

9. The present appeal concerns imposition of penalty of Rs.3,17,372/- under Section 271(1)(c) of the Act for the Assessment Year 2014-15 in question. For the identical reasons as mentioned for the appeal relevant to Assessment Year 2013-14, the penalty order under Section 271(1)(c) dated 23.02.2021 relevant to Assessment Year 2014-15 stands quashed and consequently the appeal of the assessee in ITA No.284/Del/2023 stands allowed.

10. In the result, the appeal of the assessee in ITA No.284/Del/2023 relevant to Assessment Year 2014-15 stands allowed.

ITA No.285/Del/2023 Assessment Year 2017-18

11. The appeal in ITA No.285/Del/2023 arises from the penalty

order dated 23.02.2021 passed under Section 270(A)(9) of the Act for the Assessment Year 2017-18 in question. The penalty order is found to be unsigned and the onus has not been discharged by the Revenue that a signed copy of the penalty order has been delivered to the assessee as claimed. The DIN is also not mentioned on the body of the penalty order giving rise to the present appeal. Thus for the similarity of reasons, the penalty order dated 23.02.2021 is quashed.

12. In the result, the appeal of the assessee in ITA No.285/Del/2023 relevant to Assessment Year 2017-18 stands allowed.

13. In the combined result, all the three captioned appeals of the assessee are allowed.

Order pronounced in the open Court on 22/11/2023.

Sd/-
[CHALLA NAGENDRA PRASAD]
JUDICIAL MEMBER

DATED: /11/2023

Prabhat

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER