

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'H': NEW DELHI)**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

**ITA No:- 1399/Del/2021  
(Assessment Year: 2015-16)**

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| M/s SD Precision Tech P. Ltd.,<br>5/1, 40, Feet Road, Sanjay<br>Colony, Faridabad-121005,<br>Haryana. | Vs. | Income Tax Officer,<br>Ward-4,<br>Rohtak. |
| <b>PAN No: AAHCS3345J</b>   |     |   |
| <b>APPELLANT</b>  |     | <b>RESPONDENT</b>                         |

**Assessee by** : Shri Somil Agarwal, Adv. &  
Shri Deepesh Garg, Adv.  
**Revenue by** : Shri Amit Katoch, Sr. DR

**Date of Hearing** : 19.10.2023  
**Date of Pronouncement** : 08.01.2024

**ORDER**

**PER C.N. PRASAD, JM**

This appeal by the assessee is directed against the order of the Ld. CIT(A)/ National Faceless Appeal Centre (NFAC), New Delhi, dated 10.08.2021 for Assessment Year 2015-16, in sustain the penalty levied u/s 271(1)(b) of the Act.

2. At the outset, the Ld. Counsel for the assessee submits that the assessee has not received any notice issued by the Assessing Officer or even the assessment order passed u/s 143(3) of the Act. The Ld. Counsel for the assessee referring the Page 8 of the Paper Book submits that, as a matter of fact, the assessee requested the Assessing Officer for supply of copy of assessment order passed u/s 143(3) of the Act. Therefore, the Ld. Counsel for the assessee submits that in the absence of service of any notice there is no justification in levying penalty of Rs. 10,000/- u/s 271(1)(b) of the Act.

3. Heard rival submissions. On perusal of the assessment order, we noticed that assessment was completed u/s 144 of the Act as the assessee did not respond to any of the notices issued by the Assessing Officer and ultimately the assessment was completed ex-parte as a best judgment assessment u/s 144 of the Act. We also noticed from the materials placed on record that the assessee requested copy of the assessment order passed as the assessment order was also not served upon the assessee and it was found only in the online portal of the Income Tax Department. We also found that the assessee filed an application under RTI, requesting

for complete assessment file along with the sanction of PCIT for reopening of assessment u/s 148 of the Act.

3.1 All these facts goes to show that there is merits in submission of the assessee that it had neither received any notice nor the assessment order and therefore we are of the view that there is no justification in levying the penalty u/s 271(1)(b) for non-compliance of notice u/s 142(1) dated 8.12.2017. Thus, we delete the penalty levied u/s 271(1)(b) of the Act. Grounds raised by the assessee are allowed.

4. In the result, appeal of the assessee is allowed.

Order pronounced in the Open Court on 08.01.2024

**Sd/-**  
**(N.K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

Dated: 08 /01/2024.

Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**Sd/-**  
**C.N. PRASAD, JM**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI

|   |            |
|---|------------|
| Date of dictation   | 05.-1.2024 |
| Date on which the typed draft is placed before the dictating Member                   | 5.1.24     |
| Date on which the typed draft is placed before the Other Member                       |            |
| Date on which the approved draft comes to the Sr. PS/PS                               |            |
| Date on which the fair order is placed before the Dictating Member for pronouncement  |            |
| Date on which the fair order comes back to the Sr. PS/PS                              |            |
| Date on which the final order is uploaded on the website of ITAT                      |            |
| Date on which the file goes to the Bench Clerk  |            |
| Date on which the file goes to the Head Clerk   |            |
| The date on which the file goes to the Assistant Registrar for signature on the order |            |
| Date of dispatch of the Order   |            |