

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE**

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No.341/Ind/2023**  
**(Assessment Year: 2020-21)**

PWG IT Service Private Ltd. 3 <sup>rd</sup> Floor B1 RSS Nagar, HIG Main Road Indore (Appellant / Assessee)	vs.	CIT(A), NFAC Delhi (Respondent/ Revenue)
<b>PAN: AAHCP3353K</b>		
Assessee by	Shri Ashish Goyal & N.D. Patwa ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	16.01.2024	
Date of Pronouncement	19.01.2024	

**ORDER**

**Per Vijay Pal Rao, JM:**

This appeal by the Assessee is directed against the order dated 01.09.2023 of Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC) Delhi arising from penalty order passed u/s 272A(1)(d) of the Act for Assessment Year 2020-21.

2. The assessee has raised following grounds of appeal:

*“1. The Ld. AO was not justified in passing the order, which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled.*

*2. The Ld. CIT(A) was not justified in confirming the order, which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled.*

*3. The Id. CIT(A) was not justified in confirming the addition of Rs. 20,000/- against Penalty u/s 272A..”*

3. The AO has levied the penalty of Rs.20,000/- u/s 272A(1)(d) of the Act on account of non-compliance of the notices issued u/s 142(1) dated 28.10.2021 & 01.12.2021. The assessee challenged the levy of penalty before the CIT(A) but could not succeed.

4. Before the Tribunal Ld. AR of the assessee has submitted that the AO has issued notices u/s 142(1) on various dates and assessee has duly complied with all other notices except there is a delay in compliance of these two notices dated 28.10.2021 and 02.12.2021. He has referred to the notices and submitted that the assessee subsequently filed requisite information and details called for by the AO through notices as it is apparent from the assessment order that the AO has not made any addition except on account of other expenses. Therefore, the information asked by the AO was furnished by the assessee during the course of assessment proceedings and AO was satisfied with the requisite information. He has further submitted all the notices were issued by the AO during the Covid -19 pandemic and therefore, there was a delay in

compliance on the part of the assessee which is also attributable to problem in communication between the assessee and counsel.

4.1 Ld. AR has further submitted that the AO has made the addition only in respect of the difference of commission income of the assessee because the AO has disallowed the reversal of the unbilled commission and made an addition of the same whereas all other issues on which the AO called for information were fully explained by the assessee and AO was satisfied with the explanation of the assessee as well as relevant details. Thus, when the assessment order was passed u/s 143(3) and the AO has made only addition on account of disallowance of unbilled reversal of commission income then the penalty levied by the AO u/s 272A(1)(d) of the Act is not sustainable and liable to be deleted. He has relied upon the following decisions:

*i.M/s. Ahuja Construction Pvt. Ltd. and other cases vs. DCIT(Central)-1 Bhopal ITA Nos. 626 to 662/Ind/2016 dated 08.07.2016*

*ii. Akhil Bhartiya Shiksha Sangh Bhavan vs. ACIT 115 TTJ 419*

5. On the other hand, Ld. DR has relied upon the orders of the authorities below and submitted that there is non-compliance on the part of the assessee to the notice issued u/s 142(1) and therefore, the penalty levied by the AO is justified.

6. We have considered rival submissions as well as relevant material on record. The notice u/s 142(1) issued on 28.10.2021 is placed at page no.4 to 6 of the paper book. The AO has given a

detailed Annexure to the said notice asking the assessee to furnish detailed note of source of income, nature of business activities, computation of income, trading and profit & loss account, balance sheet along with supporting annexure/schedules, bank account details and statements, details of commission income, details of interest income, details of salary and wages, copy of ledger account of expenses above Rs.10 lakhs, confirmation of cash creditors and unsecured loan. Vide notice dated 02.12.2021 the AO asked the assessee to furnish the copy of cash book. In the assessment order the AO has made an addition only on account of difference between commission income shown in the 26AS and amount declared by the assessee. The AO has noted that the assessee has reversed unbilled amount of Rs.33,93,054/- which was disallowed by the AO and added to the income of the assessee. From the quarries raised by the AO through the notice u/s 142(1) and the assessment framed u/s 143(3) it is manifested that the AO was satisfied with all other details and claim of the assessee except the reversal of the unbilled commission income. It is apparent that all these details were produced by the assessee before the AO and by comparing those details the AO has made said addition. Further it is also

undisputed fact that the assessment was completed after the alleged notice issued by the AO during Covid-19 pandemic period and therefore, the case of the assessee falls u/s 273B of the Act and hence, there is a bona fide and reasonable cause for failure on the part of the assessee to comply with the notices u/s 142(1) in time. Accordingly in the facts and circumstances of the case the penalty levied u/s 272A(1)(d) of the Act is deleted.

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

Order pronounced in the open court on 19.01.2024.

**Sd/-**  
**(B.M. BIYANI)**  
Accountant Member

**Sd/-**  
**(VIJAY PAL RAO)**  
Judicial Member

**Indore, 19.01.2024**

**Patel/Sr. PS**

*Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File*

*By order*

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*