

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

**Before Shri Challa Nagendra Prasad, Judicial Member**

**&**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 828/Del/2023 : Asstt. Year: 2017-18**

|  |    |                        |
|--|----|------------------------|
| S N Sales LLP,<br>SF M 40A, Greater Kailash-I, New<br>Delhi 110048 | Vs | ITO, Ward 29(3), Delhi |
| (APPELLANT)  |    | (RESPONDENT)           |
| <b>PAN No. ACZFS 9327 B</b>  |    |                        |

**Assessee by : Sh. Anil Kumar, Adv.**

**Revenue by : Sh. Vivek Vardhan, Sr.DR**

**Date of Hearing: 30.01.2024**

**Date of Pronouncement: 06.02.2024**

**ORDER**

**Per Dr. B. R. R. Kumar:-**

The present appeal has been filed by the assessee against the order of Id. NFAC/CIT(A), New Delhi dated 10.03.2023.

2. The assessee has raised the following grounds of appeal:-

1. *The Ld. CIT(A) has erred in confirming the Penalty of Rs. 30,000.*

2. *The order of Ld. CIT(A) is against law and facts of case.*

3. The AO completed the assessment u/s 143(3) of the I.T. Act on 17.12.2019 determining the total income of Rs. 92,86,260/-. Subsequently, the AO levied penalty of Rs. 30,000/- u/s 272(1)(d) of the I.T. Act for non-compliance of notice issued u/s 142(1) of the I.T. Act.

4. Aggrieved by this, the assessee has preferred an appeal before Commissioner of Income Tax (Appeals), who affirmed the order of the Assessing Officer holding as under:

*5.3 During the course of appellate proceedings, the assessee has not responded to the various notices issued u/s 250 of the I.T. Act issued by the First Appellate Authority. However, in the grounds of appeal filed along with Form No.35, the assessee has submitted that the AO has erred in imposing penalty of Rs. 30,000/- u/s 272A(1)(d) of the I.T Act as it is totally wrong and illegal on the facts of the case. The assessee has also mentioned that due to some internal problems in the organization between October and November, 2019, no reply could be filed during the assessment proceedings. Thereafter, once the issue got resolved in the organization, the replies were filed on 09.12.2019 before the AO for completing the assessment proceedings. There was no malafide intention to make any non compliance before the AO.*

*5.4 It is pertinent to note that the assessee was issued various notices u/s 250 of the I.T.*

*Act by the First Appellate Authority to make submissions and file documentary evidences in support of grounds of appeal, but the assessee has not responded to these notices during the appellate proceedings. During the appellate proceedings, the assessee has neither furnished any reasonable cause with evidences for not replying to the statutory notices issued u/s 142(1) of the I.T. Act dated 23.10.2019, 05.11.2019 and 20.11.2019 nor has produced the copy of reply submitted before the AO, if any. Therefore, in view of the above facts, the AO has rightly levied a penalty of Rs.30,000/- u/s 272A(1)(d) of the I.T Act for not replying to the statutory notices issued u/s 142(1) of the I.T. Act. In view of the above, this ground of appeal is hereby dismissed.*

*5.5 Accordingly, these grounds of appeal are treated as dismissed.*

5. We find that notice u/s. 272(1)(d) issued for the default in the responding to the notices issued during assessment proceedings u/s. 142(1) dated 23.10.2013 for 30.10.2019, u/s. 142(1) dated 5.11.2019 for 8.11.2019 and u/s. 142(1) dated 20.11.2019 for 22.11.2019, reply to the penalty notice filed on 10.12.2019 Stating that" as no responsible person

was available to file the reply so reply could not be filed", but the same is not accepted by AO and penalty of Rs. 30000 imposed vide order dated 29.06.2021. As per the provisions of u/s. 273B it can be considered as a reasonable cause. Hence, penalty is hereby obliterated.

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

Order Pronounced in the Open Court on 06/02/2024.

**Sd/-**  
**(C.N Prasad)**  
**Judicial Member**

**Sd/-**  
**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 06/02/2024**

\*NV, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**  
**ITAT, DELHI**