

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
MS ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No:- 1194/Del/2023  
(Assessment Year: 2017-18)**

Pawan Kumar, Meerut.	Vs.	ITO, Ward 2(1), Meerut.
<b>PAN No: ANHPK5614J</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Devashish Bhadauria, Adv.  
**Revenue by** : Shri Vivek Vardhan, Sr. DR

**Date of Hearing** : 28.02.2024  
**Date of Pronouncement** : 04.03.2024

**ORDER**

**PER N.K. BILLAIYA, AM**

This appeal by the assessee is preferred against the order dated 24.02.2023 by NFAC, Delhi, pertaining to A.Y. 2017-18.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in sustaining the penalty imposed by the AO u/s 272A(1)(d) of the Act.

3. The root cause for the levy of penalty lies in the assessment order dated 29.12.2019 framed u/s 144 of the Act. Where the AO has issued five notices which were not responded by the assessee. This prompted the AO to initiate penalty proceedings u/s 272A(1)(d) of the Act for non-compliance with the notices, and for each default, the AO levied penalty of Rs. 10,000/- totaling to Rs. 50,000/-. This action of the AO was upheld by the NFAC.

4. Before us, the Counsel for the assessee vehemently stated that only two notices were sent on the address given in the PAN data base and other notices were sent to wrong address of the assessee. Therefore, the assessee could not attend the assessment proceedings.

5. We have carefully considered the orders of the authorities below. We have also the benefit of Report of the Assessing Officer dated 28.02.2024 submitted by the DR. As per the details, we find that first two notices were issued to the assessee through speed-post and the same were not returned. Though, the report mentions five notices, and the penalty has been levied for each default. We are of the considered view that the assessee is liable to pay the penalty on the first default. Thereafter, the AO could have proceeded to frame an ex-parte order. We

accordingly direct the AO to levy a penalty of Rs. 10,000/- only and delete the balance.

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

Order pronounced in the Open Court on 04.03.2024

**Sd/-**  
**(ASTHA CHANDRA)**  
**JUDICIAL MEMBER**

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

Dated: 04/03/2024.

Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

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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	
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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	