

आयकर अपीलिय अधिकरण
दिल्ली पीठ "ई", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री नवीन चंद्र, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

आअसं. 3502/दिल्ली/2023 (नि.व. 2017-18)
ITA NO.3502/DEL/2023 (A.Y.2017-18)

Modern Paper Mart P. Ltd.,
344, Chawri Bazar,
Delhi 110006
PAN: AAACM-0062-H

..... अपीलार्थी/ Appellant

बनाम Vs.

Income Tax Officer
Ward 17(3), New Delhi 110002

..... प्रतिवादी/ Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Pratap Gupta, CA
प्रतिवादीद्वारा/ Respondent by : Shri S.L. Verma Sr. DR
सुनवाई की तिथि/ Date of hearing : 18/06/2024
घोषणा की तिथि/ Date of pronouncement : 20/06/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)] dated 04.11.2023, for Assessment Year 2017-18, confirming levy of penalty u/s. 272A(1)(d) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. Shri Pratap Gupta, appearing on behalf of the assessee submits that the assessee had filed return of income on 28.10.2017, declaring income of Rs.18,74,970/-. During the course of assessment proceedings the assessee had furnished requisite details and documents as sought by the Assessing Officer (AO). The AO after examining the details and documents furnished by the assessee accepted the returned income vide assessment order dated 22.12.2019. The AO has erred in levying penalty u/s. 272A(1)(d) of the Act vide impugned order dated 13.11.2019 without appreciating the fact that the query raised by the AO was quite lengthy and it took some times for the assessee to furnish detailed submissions based on the documentary evidences. It is not a case of non compliance. The assessee had furnished detailed explanation vide letter dated 11.12.2019. Eventually, on the basis of detailed explanation the AO accepted returned income of the assessee. Further, the Id. AR vehemently opposing penalty order submits that AO has not recorded any satisfaction for levy of penalty u/s. 272A(1)(d) in the assessment order. The Id. AR placed reliance on the decision in the case of *Globus Infocom Ltd. Vs. DCIT in ITA No. 738/Del/2014* for AY 2010-11 decided on 29.06.2016, to contend that where the assessment has been made without any addition on the basis of documents furnished by the assessee no penalty u/s. 272A(1)(d) of the Act is leviable as subsequent compliance was considered as good compliance and the defaults committed earlier were ignored by the AO.

3. Per contra, Shri S.L. Verma representing the Department supporting the impugned order pointed that a perusal of assessment order would show that the

AO had given ten opportunities to the assessee to furnish necessary documents. The AO made submissions after the last date of hearing on 11.12.2019 i.e. just before passing of assessment order. He further pointed that penalty u/s. 272A(1)(d) of the Act was levied vide order dated 13.11.2019 in respect of non compliance of notice dated 22.07.2019 issued u/s. 142(1) of the Act. Therefore, date of penalty order is prior to the date of assessment order. The penalty was levied for non compliance of the notice; hence, there was no requirement for AO to record satisfaction for levy of penalty in assessment order.

4. We have heard the submissions made by rival sides and have examined the orders of authorities below. The assessee is in appeal against the order of First Appellate Authority confirming levy of penalty of Rs. 10,000/- u/s. 272A(1)(d) of the Act, for non compliance of notice dated 22.07.2019 issued u/s. 142(1) of the Act.

5. It is an undisputed fact that subsequently the assessee has complied with the notice issued by the AO and had furnished necessary documents. The reason given by the assessee for delay in responding to the notice dated 22.07.2019 seems plausible. There appears to be reasonable cause for the said failure. The AO after examining the details and documents furnished by the assessee accepted the returned income for the impugned assessment year. Taking into consideration entire facts of the case, we are of considered view that penalty levied u/s. 272A(1)(d) of the Act is liable to be deleted. We, hold and direct accordingly.

6. In the result, impugned order is set aside and appeal of the assessee is allowed.

Order pronounced in the open court on Thursday the 20th day of June, 2024.

Sd/-

(NAVEEN CHANDRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 20/06/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI