



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI G. D. PADAMAHSHALI, ACCOUNTANT MEMBER
AND SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

ITA No.242/LKW/2019
Assessment Year: 2013-14

The Sub-Registrar Kasia Tehsil Compound Kasia, Khushinagar PAN:ALDSO5094F (Appellant)	v.	The ACIT (I&CI) Lucknow (Respondent)
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Appellant by:	Shri A. P. Sinha, Advocate		
Respondent by:	Shri Sanjeev Krishna Sharma, D.R.		
Date of hearing:	27	06	2024
Date of pronouncement:	12	07	2024

ORDER

PER SUBHASH MALGURIA, J.M.:

This appeal has been filed by the assessee against the order of the Id. CIT(A), Gorakhpur dated 22.01.2019 for the assessment year 2013-14, raising the following grounds of appeal:

- 1. In the facts and circumstances of the case and in law the Ld. C.I.T., (Appeals), Lucknow has erred while sustaining the penalty order.*
- 2. In the facts and circumstances of the case and in law the Ld. C.I.T., (Appeals), Lucknow has erred while not appreciating that there was reasonable cause for not furnishing the requisite information.*
- 3. In the facts and circumstances of the case and in law the Ld. C.I.T., (Appeals), Lucknow failed to considering that the power in respect of an inquiry, in a case where no proceedings is pending, shall not be exercised by any income tax authority below the rank of Principal Director or Principal Commissioner of Income Tax or C.I.T. [Other than the Joint*

Director or Dy. Director or Asstt. Director] without prior approval of Pr. Director or Director or as the case may be Pr. C.I.T. or C.I.T.

4. In the facts and circumstances of the case and in law the Ld. C.I.T., (Appeals), Lucknow has erred while not considering that there was loss of loss of revenue by not furnishing the information as notice u/s 133 (6) of the Income Tax Act, 1961.

5. In the facts and circumstances of the case and in law the Ld. C.I.T., (Appeals), Lucknow has erred while not considering that whatever information was available was filed by the appellant at first instance [letter dated 17.5.2018 of the A.C. of Income Tax, Circle-2, Gorakhpur]

2. There is a delay of 03 days in filing of this appeal. As per the application for condonation of delay, supported by the affidavit of Shri Sant Kumar Rawat (Sub-Registrar/assessee), we find that there was sufficient cause for delay in filing of the appeal. Accordingly, we condone the delay and admit this appeal for hearing.

3. The brief facts of the case are that the assessee, Sub-Registrar of properties, was required by the Income Tax Officer (I&CI), Gorakhpur to furnish information regarding the registered sale/purchase deeds under section 133(6) of the Income Tax Act, 1961. Since no information was furnished even after issuance of reminders, a show cause notice was issued to the assessee for initiating proceedings under section 272A(2)(c) of the Act. Since the assessee has failed to discharge the obligation prescribed under section 133(6) of the Act by furnishing the requisite information before the prescribed authority, the Income Tax Officer (I&CI) initiated penalty proceedings and imposed a penalty of Rs.35,300/- under section 272(2)(C) of the Act. Aggrieved, the assessee preferred appeal before the ld. CIT(A).

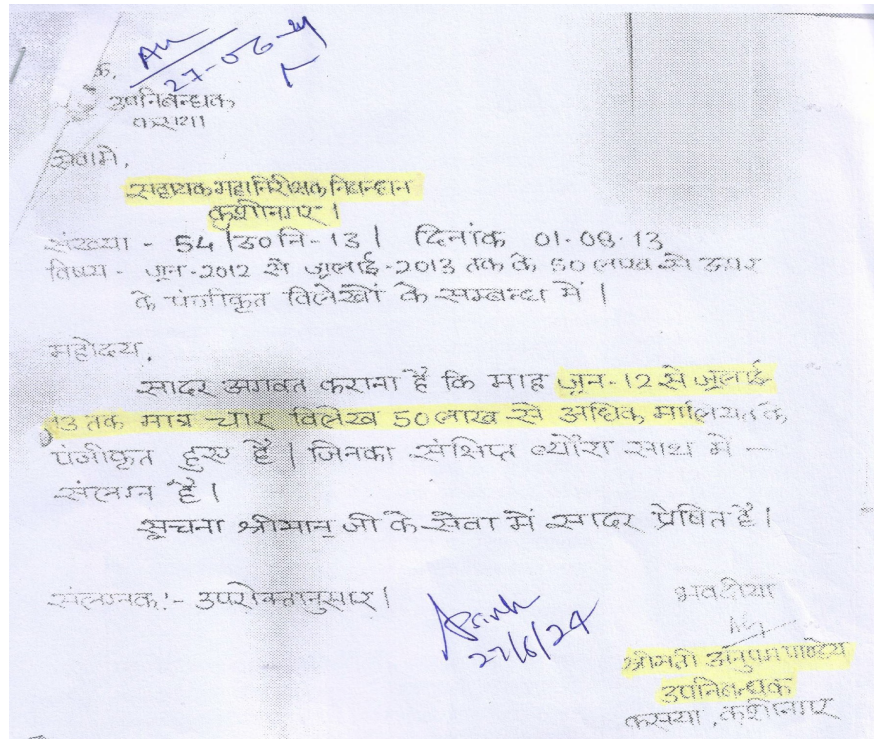
4. During the pendency of appeal before the ld. CIT(A), the assessee filed a Writ Petition, vide Writ Tax No.359 of 2014, challenging the notices issued under section 133(6) of the Act before the Hon'ble jurisdictional High Court. The Hon'ble High Court, vide order dated 30.7.2014 disposed of the Writ Petition, directing the Department to expeditiously decide the appeal of the assessee against the orders of penalty imposed. The ld. CIT(A) finally dismissed the appeal of the assessee, upholding the penalty levied under section 272A(2)(c) of the Act, observing that the assessee has not submitted any valid reason/cause for failure to discharge the obligation under section 133(6) of the Act.

5. Aggrieved by the order of the ld. CIT(A), the assessee is now in appeal before this Tribunal. The ld. counsel for the assessee at Bar submitted on oath that the requisite information was wrongly furnished before the Assistant Inspector General (Registration), Khushinagar by the Deputy Registrar, Kasia, Khushinagar vide letter No.54/U.Ni-13 dated 1.8.2013. A copy of the same has been produced before us and submitted that there was valid reason/cause for not submitting the same before the ITO, as the requisite information had wrongly been submitted before the Assistant Inspector General (Registration), Khushinagar, therefore, the act of the assessee in not furnishing the same before the ITO being purely unintentional and legitimate, the penalty should not have been levied. He accordingly prayed that the penalty levied under section 272A(2)(c) of the Act by the ITO and confirmed by the ld. CIT(A) be deleted.

6. The ld. D.R., on the other hand, supporting the orders of the authorities below, has submitted that the assessee was under obligation to provide the information sought for by the ITO under

section 133(6) of the Act. However, the assessee failed to furnish the same despite various opportunities afforded, therefore, the penalty has rightly been levied under section 272A(2)(c) of the Act and confirmed by the Id. CIT(A), which needs no interference.

7. We have heard both the parties and perused the material on record. It is an undisputed fact that the ITO by issuing notice under section 133(6) of the Act required the assessee to furnish information regarding the registered sale/purchase deeds for a certain period. The assessee failed to furnish the same, hence he imposed a penalty of Rs.35,300/- under section 272A(2)(c) of the Act, which was confirmed by the Id. CIT(A). Before us, the submission of the assessee was that the requisite information was wrongly furnished to the Assistant Inspector General (Registration), Khushinagar by the Deputy Registrar, Kasia, Khushinagar vide letter No.54/U.Ni-13 dated 1.8.2013. For the sake of ready reference, a scanned copy of the same is reproduced below:



8. As per provisions of section 273B of the Act, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in section 272A of the Act and if he proves that there was reasonable cause for the said failure. In the present case, the assessee has asserted before us that the requisite information could not be furnished before the ITO for the reason that the same had wrongly been furnished before the Assistant Inspector General (Registration), Khushinagar. The explanation of the assessee is found to be bona-fide. In this view of the matter, we are of the view that the penalty of Rs.35,300/- levied under section 272A(2)(c) of the Act is not justifiable in the eyes of law. We, therefore, find no justification in imposing the penalty. Accordingly, we order deletion of penalty of Rs.35,400/- levied under section272A(2)(c) of the Act.

9. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open Court on 12/07/2024.

Sd/-
[G. D. PADAMAHALI]
ACCOUNTANT MEMBER

Sd/-
[SUBHASH MALGURIA]
JUDICIAL MEMBER

DATED:12/07/2024

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

By order

Assistant Registrar



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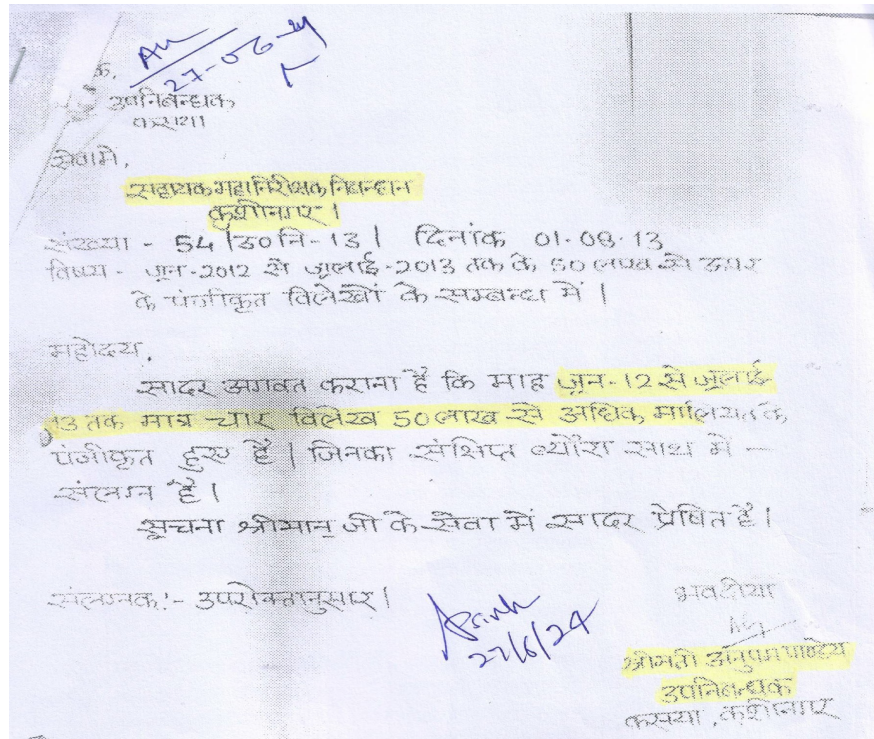
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By order
Assistant Registrar