

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A": NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA Nos. 622 & 623/DEL/2023**

**Assessment year: 2012-13**

<b>Ashu Mathur, E-227, 2<sup>nd</sup> Floor, Greater Kailash, Part-1, New Delhi-110048.</b>	<u>Vs</u>	Income Tax Officer, Ward-71(3), New Delhi.
<b>PAN: AHBPM 9636 J</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Shri G.S. Kohli, CA	
<b>Department represented by</b>	Shri Kanv Bali, Sr. DR	
<b>Date of hearing</b>	29.07.2024	
<b>Date of pronouncement</b>	29.07.2024	

**ORDER**

**PER SAKTIJIT DEY, VP:**

These appeals, filed by the assessee, are against two separate orders of National Faceless Appeal Centre (NFAC), Delhi, affirming penalty imposed u/s 271(1)(b) of the Income-tax Act, 1961, pertaining to assessment year 2012-13.

2. Briefly, the facts are, the assessee is a resident individual. It is evident, in the Non filer Monitoring System (NMS) of the Department, an information was received that in the previous year, relevant to the assessment year under dispute,

the assessee had sold immovable property for a consideration of Rs. 46,54,927/-. Whereas, as alleged, the assessee had not filed any return of income for the assessment year under dispute. Having reason to believe that income assessable to tax had escaped assessment, the Assessing Officer reopened the assessment u/s 147 of the Act. Notices u/s 148 and thereafter u/s 142(1) and 143(2) were issued to the assessee from time to time. However, as alleged by the Assessing Officer, except raising an objection against reopening of assessment u/s 147 of the Act vide letter dated 30.09.2015, the assessee did not comply with any of the notices issued to him. Alleging failure to comply with statutory notices, the Assessing Officer initiated proceedings for imposition of penalty u/s 271(1)(b) of the Act and ultimately passed order imposing penalty of Rs. 50,000/- and Rs. 10,000/- respectively u/s 271(1)(b) of the Act. Though, the assessee challenged the imposition of penalty before the First Appellate Authority, however, he was unsuccessful.

3. Before us, learned counsel appearing for the assessee submitted that the assessee has been regularly filing his return of income voluntarily u/s 139(1) of the Act in the new PAN provided to him as the earlier PAN was defective. He submitted, ignoring this fact, the Assessing Officer continued to issue notices mentioning defective PAN, which never came to the notice of the assessee. Therefore, the assessee could not comply with such notices. In this context he drew our attention to the return of income filed by the assessee for the impugned assessment year, copy of which is placed at pages 16 & 17 of the paper book. Thus, he submitted, there was reasonable cause for non-compliance with the statutory notices.

4. The learned Departmental Representative strongly relied upon the observations of the departmental authorities.

5. We have considered rival submissions and perused materials on record. As could be seen from the materials placed in the paper book, the assessee is regularly filing his return of income with PAN "AEMPM 1521 L", whereas, the Assessing Officer had been issuing all statutory notices mentioning PAN "AHBPM 9636 J". It is the say of the assessee that the PAN mentioned by the Assessing Officer was a defective PAN and subsequently the assessee was allotted a new PAN in which the assessee is filing his return of income. In the objections to the notice issued u/s 148 of the Act, the assessee vide letter dated 30.09.2015 had brought this fact to the notice of the Assessing Officer. In fact, even before the First Appellate Authority, the assessee had made submissions to this effect. However, the First Appellate Authority has rejected assessee's contention stating that statutory notices issued by the Assessing Officer are system generated and uploaded in ITBA or ITD system of department. When the statutory notices were issued mentioning the defective/old PAN, it is impossible on the part of the assessee to keep track of such notices as was communicating to the Department with new PAN allotted to him. In such a scenario, non-compliance with the statutory notices is understandable. Section 273B postulates that penalty u/s 271(1)(b) cannot be imposed if the assessee establishes reasonable cause for failure to do certain things. In our considered view, due to the circumstances discussed above, the non-compliance with statutory notices by the assessee falls in the category of 'reasonable cause' in terms with Section 273B of the Act. Therefore, we are inclined to delete the penalty imposed of Rs. 50,000/- and Rs. 10,000/- u/s 271(1)(b) of the Act.

6. In the result, appeals are allowed.

Order pronounced in open court on 29.07.2024.

**Sd/-**  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(SAKTIJIT DEY )**  
**VICE PRESIDENT**

**Dated:29.07.2024.**

**\*MP\***

Copy forwarded to:

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

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