

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

I.T.A. No. 510/DEL/2024 (A.Y 2017-18)

I.T.A. No. 538/DEL/2024 (A.Y 2017-18)

Nagender Kumar Village Mujeri, P.O. Neemka, Tehsil Ballabgarh, Faridabad, Haryana PAN No. CGJPK9787M (APPELLANT)	Vs.	Income Tax officer C. R. Building, Faridabad, Haryana (RESPONDENT)
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Assessee by :	None
Department by:	Sh. Jatender Kumar Kale, SR. DR

Date of Hearing	01.08.2024
Date of Pronouncement	12.08.2024

ORDER

PER YOGESH KUMAR U.S., JM

The above mentioned appeals are filed by the assessee for Assessment Year 2017-18 against the order passed by the Ld. Commissioner of Income Tax (Appeals) (Ld. CIT(A) for short), Delhi dated 08/12/2023.

2. The grounds of Appeal are as under:-

“1. That having regards to the facts and circumstances of the case, the Ld. CIT(A) has erred in confirming the penalty amounting to Rs. 10,000.

2. That having regards to the facts and circumstances of the case, the Ld. CIT(A) has erred in not considering submissions given by appellant.

3. That the Ld. CIT(A) has not afforded proper opportunity to the appellant to explain the matter and whole order is arbitrary and against the principles of natural justice.

4. That in any view of the matter and in any case the order under appeal is bad in law and against the circumstances of the case.

5. That the appellant craves leave to add, modify, or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

3. Brief facts of the case are that, a penalty order dated 23/08/2022 u/s 272A(1)(d) of the Income Tax Act, 1961 ('Act' for short) has been passed by imposing penalty of Rs. 10,000/- for non compliance to statutory notice issued u/s 142(1) of the Act pertaining to Assessment Year 2017-18. As against the order of penalty dated 23/08/2022, the assessee preferred Appeal before the Ld. CIT(A). The Ld. CIT(A) dismissed the Appeal filed by the assessee by confirming the order of the penalty. Aggrieved by the

order of the Ld. CIT(A) dated 08/12/2023, the assessee preferred the present Appeal on the grounds mentioned above.

4. None appeared for the assessee even after issuance of notice by the registry. Considering the issue involved in the present Appeal, we deem it fit to decide the Appeal on hearing the Ld. Departmental Representative and verifying the material available on record.

5. The Ld. Departmental Representative by relying on the orders of the Lower Authorities sought for dismissal of the Appeal.

6. We have heard the Ld. Departmental Representative perused the material available on record. The assessee being a farmer lives in village Mujeri-Faridabad, District Haryana, filed his last return for Assessment Year 2014-15 on 04/06/2014. After a lapse of eight years, the A.O. issued notice u/s 148 of the Act on the e-mail id of the person by whom the return of Assessment Year 2014-15 was filed. It is the case of the assessee that the communication for assessment proceedings were not aware to the assessee till the closure of the assessment and the assessee came to know about

the passing of assessment order through his elder brother only on 25/01/2023. Thus, the assessee could not comply with the notices issued u/s 142(1) of the Act. Considering the above facts and circumstances, we find that compliance of notice u/s 142(1) of the Act was not deliberate, accordingly we delete the penalty imposed u/s 272A(1)(d) of the Act.

7. In the result, Appeal filed by the assessee in ITA No. 510/Del/2024 is allowed.

8. The ITA No. 538/Del/2024 has also filed by challenging very same impugned order of the Ld. CIT(A) which in ITA No. 510/Del/2024, therefore, the Appeal in ITA No. 538/Del/2024 does not survive, accordingly, the Appeal in ITA No. 538/Del/2024 is dismissed.

Order pronounced in the open court on 12th AUGUST, 2024.

Sd/-

**(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

Dated : 12/08/2024

*R.N, Sr. PS**

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Copy forwarded to :

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

