

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "E", MUMBAI**

**BEFORE SHRI NARENDRA KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.3054/M/2024
Assessment Year: 2018-19**

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| Kamal Parshuram Singh G-26, Ground Floor, 10/21, Flox Chamber, Tata Road No.1, Roxy Cinema, Opera House, Girgaon, Mumbai- 400004. PAN: GUWPS3065K | Vs. | DCIT, Central Circle- 5(2) Air India Building, Nariman Point, Mumbai- 400021. |
| (Appellant) | | (Respondent) |

Present for :

Assessee by : Shri Jay Thakkar, C.A.

Revenue by : Shri P. D. Chougule (Addl. CIT) SR. DR.

Date of Hearing : 31 . 07 . 2024

Date of Pronouncement : 19 . 08 . 2024

ORDER

Per: Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the 'Act' in short]



vide DIN & Order No. ITBA/APL/S/250/2024-25/1064628004(1) Dated 03/05/2024 for the Assessment Year 2018-19.

2. Following grounds of appeal have been raised by the appellant:

“The appellant prefers an appeal against an order passed by Ld. Commissioner of Income Tax (Appeal)-53, Mumbai dated 03/05/2024 on following amongst other grounds each of which are without prejudice to any other:-

- 1.0. On facts and circumstances of the case and in law, Ld. CIT(A) erred in confirming the levy of Penalty u/s.272A(1)(d) of Rs.20,000/- for non-compliance of notice issued u/s.142(1) during COVID-19 pandemic period;*
- 2.0. The Ld. CIT(A), before confirming the levy of penalty u/s.272A(1)(d) of Rs.20,000/- for non-compliance with 2 notices issued u/s.142(1), ought to have considered understated vital facts, being:
 - a) The original assessment order passed u/s.144 had been set-aside by Hon'ble ITAT, 'E' bench, Mumbai in ITA No.4852/Mum/2023;*
 - b) The notice u/s.142(1) were issued on 19/12/2020 and 10/03/2021 during COVID-19 pandemic period and adequate time was not provided to the appellant to compile the details and documents to filed on record;*
 - c) The Ld. CIT (A) did not consider the bonafide reasons and compelling circumstances that had precluded the appellant amidst COVID-19 pandemic to file the submission before the AO.**

The appellant craves leave to add, amend, alter and/or withdraw any of the grounds of appeal at the time of hearing.”



3. The facts of the case, in brief, are that during the course of assessment proceedings notices u/s. 142(1) dated 19/12/2020 and 10/03/2021 were issued to the assessee for compliance on 04/01/2021 and 13/03/2021 respectively. However, neither any response was received from the assessee nor any adjournment was sought. The Ld. AO issued reminders dated 27/01/2021 and 22/03/2021 and served upon the assessee requesting him to submit his response to explain his case. However, no compliance was made by the assessee and therefore, the Ld. AO completed the assessment ex-parte as per the provision of section 144 r.w.s. 144B of the Income Tax Act on 16/04/2021 assessing the total income at Rs.920,96,07,725/- Penalty proceedings u/s. 272A(1)(d) of the Act was also initiated by issuing show cause notice dated 06/02/2021. During the penalty proceedings, the Ld. AO issued two show cause notices dated 06/02/2021 and 27/08/2021 u/s. 272A(1)(d), however, again there was no response from the assessee. The Ld. AO, therefore, imposed penalty of Rs.20,000/- (Rs.10,000/- for each default) u/s. 272A(1)(d) of the Act.
4. Aggrieved by the order of the Ld. AO, the assessee filed appeal before the Ld. CIT (A). The Ld. CIT (A) confirmed the penalty of Rs.20,000/- imposed by the Ld. AO u/s. 272A(1)(d) of the Act on the ground that it is found that the assessee had received the two notices issued u/s 142 (1) of



the Act on 19/12/2020 and 10/03/2021 but didn't comply on the ground that very short time was given to him and this explanation for non-compliance doesn't hold good.

5. The present appeal has been filed against the order of the Ld. CIT (A). During the appellate proceedings before us, it was submitted by the appellant that the notices issued by the AO u/s 142 (1) of the Act on 19/12/2020 and 10/03/2021 couldn't be complied due of Covid-19 pandemic. It was also stated by the appellant that quantum appeals in the case of the appellant itself have already been set aside and remanded to the file of the Ld. AO and the penalty, imposed u/s 271AAC of the Act also got deleted in ITA No. 4852 and 4849/ Mum/2023 passed by the coordinate Bench of ITAT, Mumbai.
6. We have considered the above position and accordingly, delete the penalty imposed u/s. 272A (1)(d) of the Act.
7. In the result, the appeal is allowed.

Order pronounced in the open court on 19.08.2024.

Sd/-
NARENDRA KUMAR CHOUDHRY
JUDICIAL MEMBER

Sd/-
RATNESH NANDAN SAHAY
ACCOUNTANT MEMBER

Mumbai, Dated: 19.08.2024.
Snehal C. Ayare, Stenographer



Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.