

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA**

**Shri Sonjoy Sarma, Judicial Member  
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.1401/Kol/2024  
Assessment Year: 2013-14**

**Dipak Kumar Ganeriwala,**  
16B, Rowland Road,  
Ballygunge, Kolkata - 700020  
[PAN: ADFPG9527J] ..... **Appellant**

**vs.**

**Assistant Commissioner of Income Tax,  
Circle-3(1), Asansol,  
Income Tax Officer,  
Parmar Building, 54, G.T. Road,  
Asansol - 713305 ..... Respondent**

**Appearances by:**

Assessee represented by : A. Kochar, AR  
Department represented by : P.P. Barman, Addl. CIT, Sr. DR

Date of concluding the hearing : September 18, 2024  
Date of pronouncing the order : September 18, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2013-14 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 24.04.2024 arising out of Penalty Order dated 25.03.2019, passed under Section 271(1)(c) of the Act.

2. The Assessee has raised the following grounds of appeal:

*"1. For that the orders passed by the lower authorities are arbitrary, erroneous, without proper reasons, invalid and bad-in-law, to the extent to which they are prejudicial to the interests of the appellant.*

*2. For that the Ld. CIT (A) erred in not providing reasonable and sufficient opportunity to the appellant to explain the facts of the case.*

*3. For that the Ld. CIT (A) ought to have provided the appellant an opportunity to explain as to why the penalty levied u/s 271(1)(c) of the Income Tax Act, 1961 is wrong and uncalled for.*

*4. For that in the facts and circumstances of the case the Ld. CIT (A) ought to have cancelled the penalty so levied.*

*5. For that the appellant craves leave to amend, alter, modify, substitute, add to, abridge and/or rescind any or all of the above grounds.*

3. Brief facts of the case are that the Ld. CIT(A) confirming the penalty levied u/s 271(1)(c) of the Act. During the hearing, the Ld. AR for the assessee submitted that the Ld. CIT(A) had not provided reasonable and sufficient opportunity to the assessee to extent the facts and present the case adequately. It was argued that this lack of opportunity rendered the impugned order bad in law and liable to be set aside.

4. On the other hand, Ld. DR supported the order passed by the Ld. CIT(A), stating that the penalty was correctly confirmed in accordance with legal provision.

5. However, upon examination of the materials placed before us including copy of the IT portal record. It is evident that notice of the hearing was issued to the assessee sometimes on 19.03.2021, after that no further notice were issued to the assessee and the order was subsequently passed on 24.04.2024. This is clearly indicates that the assessee was not given a proper opportunity to present his case and make submissions before the Ld. CIT(A). In view of the fact and lack of

appropriate opportunity being afforded to the assessee. We find it necessary to remand the matter back to the file of the Ld. CIT(A) for fresh adjudication. The Ld. CIT(A) is directed to issue proper notice to the assessee provide sufficient opportunity for the assessee to be heard and then pass an appropriate order in accordance with law within reasonable period. In the light of the above, appeal of the assessee is allowed for statistical purposes and the matter is remand back to the CIT(A) for fresh consideration. In terms of the above, appeal of the assessee is allowed for statistical purposes.

6. In the result, appeal of the assessee is allowed for statistical purposes.

***Kolkata, the 18<sup>th</sup> September, 2024.***

***Sd/-***  
**[Rakesh Mishra]**  
**Accountant Member**

***Sd/-***  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: 18.09.2024.  
*AK, PS*

*Copy of the order forwarded to:*

1. Dipak Kumar Ganeriwala
2. Assistant Commissioner of Income Tax, Circle-3(1), Asansol
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches