

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"PATNBENCH"(VIRTUAL HEARING AT KOLKATA)**

**Shri Manish Borad, Accountant Member**  
**Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No.115/Pat/2023**  
**Assessment Year: 2017-18**

**SNG Microns Private Limited,**  
Link Road, Agamkuan, Gulzarbagh,  
Patna - 800007  
[PAN:AARCS2325Q].....**Appellant**

**vs.**

**National Faceless Assessment Centre,**  
**Delhi,** ..... **Respondent**

**Appearances by:**

Assessee represented by : Rakesh Kumar, Advocate  
Department represented by : Ashwani Kumar, Sr. DR

Date of concluding the hearing : July 08, 2024  
Date of pronouncing the order : September 26, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2017-18 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) (in short "the Ld. CIT(A)"), National Faceless Appeal Centre (NFAC), Delhi, dated 29.03.2023 arising out of Penalty Order dated 06.09.2021, passed under Section 272(1)(d) of the Act.

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

- "1. For that the Id. CIT (A) NFAC has erred in affirming imposition of penalty u/s 272A (1)(d) amounting to Rs.20,000/-.*
- 2. For that the Ld. CIT (A) NFAC has failed to appreciate that imposing penalty without proper service of notice and adequate opportunity and thus has violated the principles of equity and natural justice.*
- 3. For that the Id. CIT(A) NFAC has erred in affirming imposition of penalty u/s 272A(1)(d) for allegation non-compliance to the provision of section 143(2) 142(1) of the Income tax Act which is wrong, illegal and unjustified on the facts of the case.*
- 4. For that the Ld. CIT (A) NFAC has failed to appreciate that no penalty is leviable / sustainable u/s 272A(1)(d) in view of order of the Jurisdictional Tribunal directly on the issue which has been followed in umpteen number of orders of the Tribunal, Patna Bench, Patna.*
- 5. For that the sustenance of penalty by CIT (A) NFAC is wrong, illegal and unjustified on the facts and in the circumstances of the appellant's case.*
- 6. For that the whole order is bad in fact and law of the case and is fit to be cancelled."*

3. The case of the assessee was selected for complete scrutiny under the guidelines of Centralized Scrutiny Assessment Scheme (CASS). A notice u/s 143(2) of the Act was issued on 25.09.2018 and in compliance the assessee filed online submission on 11.10.2018. Thereafter, no notice or communication was received by the assessee except the assessment order and the demand notice, the assessment order dated 11.12.2019 mentioned that the notice u/s 142(1) of the Act was issued on 09.10.2019 almost a lapse of 12 months from the date of notice u/s 142(1) of the Act and after a lapse of 24 months from the date of filing the return of income. Further, show cause notice were issued on 08.11.2019 and 03.12.2019 respectively, the assessment order was eventually passed on 11.12.2019. As per the assessment order, the Ld. AO claimed that all the notices were sent to the assessee through its registered e-mail via income tax portal. However, the assessee failed to comply with the notices and consequently,

a penalty notice u/s 272A(1)(d) of the Act was issued on 18.11.2019 and again on 06.08.2021 for non-compliance with the notices u/s 143(2) and 142(1) of the Act. Subsequently, a penalty of Rs. 20,000/- was levied on 06.09.2021 by passing a penalty order u/s 272A(1)(d) of the Act.

4. Aggrieved by the penalty order, the assessee filed an appeal before the Ld. CIT(A), where the appeal was dismissed.

5. Dissatisfied with the order of the Ld. CIT(A), the assessee has now in appeal before this Tribunal.

6. At the time of hearing the Ld. AR submitted that notice u/s 142(1) of the Act were never properly served on the assessee. It was argued that all the communications were sent via e-mail to the assessee's consultant, who failed to unaware of the notices and therefore, did not appear before the Ld. AO. The Ld. AR further contended that penalty imposed u/s 272A(1)(d) of the Act was unjust as the assessee did not intentionally fail to comply with the notices. The assessee could not present its case due to non-communication of the notice by the consultant. Therefore, it was prayed that the penalty be set aside.

7. On the other hand, the Ld. DR supported the orders of the AO and the Ld. CIT(A), it was submitted that the notices were duly sent to the assessee through registered email address and non-compliance of the assessee warranted the imposition of penalty. The Ld. DR further argued that the assessee had failed to comply with the statutory requirements, therefore, the penalty was rightly imposed.

8. We have heard the rival submissions and perusing the material available on record. The primary issue for consideration is whether the penalty order u/s 272A(1)(d) of the Act was rightly imposed for non-

compliance with the notices issued u/s 143(2) and 142(1) of the Act. On this issue, it is undisputed fact that the notices u/s 143(2) and 142(1) of the Act were sent through income tax portal to the registered e-mail of the consultant. However, the assessee contends that it was unaware of this notice due to failure on the part of the consultant to inform the assessee of the pending proceedings. In such a scenario, where the assessee was not responded due to the negligence of the consultant imposition of penalty appears harsh. Moreover, the intention of the assessee is that it had no intention of ignoring the notice and was not given any an opportunity to respond as the consultant did not communicate the notice. Given these facts, we are of the view that the assessee had reasonable cause for non-compliance u/s 273B of the Act which provides relief for penalty where the assessee can demonstrate a reasonable cause for failure to comply. We considering the facts and circumstances as stated above and the failure of the consultant to communicate the notices to the assessee, we hold that the penalty imposed u/s 272A(1)(d) of the Act is not justified. Accordingly, we set aside the penalty imposed by AO and allow the appeal in favour of the assessee.

9. In the result, appeal of the assessee is allowed and penalty of Rs. 20,000/- imposed u/s 272A(1)(d) of the Act is hereby deleted.

***Kolkata, the 26<sup>th</sup> September, 2024.***

Sd/-  
**[Manish Borad]**  
**Accountant Member**

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

Dated: 26.09.2024.  
AK, PS

*Copy of the order forwarded to:*

- 1.SNG Microns Private Limited
- 2.National Faceless Assessment Centre, Delhi
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches

1.