

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

ITA No.101/Agr/2023
Assessment Year: 2013-14

M/s. Fairyland Hotels and Resorts Pvt. Ltd., A-225, Patel Nagar, City Center, Gwalior.	Vs.	ACIT, Circle-1, Gwalior
PAN : AAACF9992K		
(Appellant)		(Respondent)

Assessee by	Sh. Rajendra Sharma, Advocate
Department by	Sh. Shailendra Shrivastava, Sr. DR

Date of hearing	13.02.2025
Date of pronouncement	13.02.2025

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for assessment year 2013-14, arises against the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre [in short, the "CIT(A)-NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2021-22/1033180097(1) dated 31.05.2021, involving proceedings under section 221(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties. Case file perused.
3. It emerges during the course of hearing that both the learned lower authorities have levied section 221(1) penalty of Rs.8 lakhs in assessee's

case for non-payment of tax demand, thereby holding it to have failed to explain cogent reasons for non-payment thereof.

4. It is in this factual backdrop that the learned counsel invited our attention to assessee's paper book wherein it had already moved for waiver of demand regarding interest component etc. which was very well pending as on the date of impugned penalty order dated 05.01.2018. The assessee has explained that lack of cooperation is not required to be adjudicated once it has made out a case of "reasonable" explanation to get the impugned penalty deleted. This tribunal's "Special Bench" in M's. Claris Life Sciences v/s DCIT dated 04.10.2017 has already settled the issue that it is indeed open for an assessee to plead and prove the relevant good and sufficient reasons to get out of the rigor of section 221 penalty herein. We, thus, conclude that the assessee's default in non-payment of the taxes herein, is on account of the foregoing circumstances only and delete the impugned sec. 221 penalty in very terms. Ordered accordingly.

5. This assessee's appeal is allowed.

Order pronounced in the open court on 13TH February, 2025.

**Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER**

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

Dated: 13TH February, 2025.

*aks/-