

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
MS.PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.4692/Mum/2024  
(Assessment Year :2015-16)**

Deejay Stocks Private Limited 401, Shangrilla Apt. L.T. Road, Borivali (W) Mumbai-400 092	Vs.	DCIT 4(2)(1) Aayakar Bhavan Maharishi Karve Road Mumbai -400 020
<b>PAN/GIR No.AADCD6404H</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Ms. Aadnya Bhandari
Revenue by	Shri R.R. Makwana, Addl. CIT
<b>Date of Hearing</b>	<b>27/02/2025</b>
<b>Date of Pronouncement</b>	<b>28/02/2025</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the assessee against order dated 19/07/2024 passed by NFAC, Delhi in relation to the penalty proceedings u/s.271(1)(c) for the A.Y.2015-16.

2. The assessee is aggrieved by levy of penalty of Rs.30,000/- for not responding to certain notices issued online by the ld. AO.

3. Before us it has been submitted that in assessee's own case for the A.Y.2014-15 and 2016-17 similar penalty levied has been deleted by the Tribunal. For the sake of ready reference the relevant finding reads as under:

*"4. The Ld.AR submitted that, there was bonafide reason for non appearance before the authorities below are genuine. He submitted that, the medical treatment of the Director's Father and demise of Director's Mother led the situation to worsen as the Director could not pay any attention to the day to day affairs of the assessee. It was under such circumstances that the notices issued by the Ld.AO were not complied with.*

*4.1. The Ld.AR submitted that, the documents related to medical treatment of Director's Father and Death Certificate of Director's Mother would explain and substantiate the reasonableness for non appearance even before the Ld.CIT(A). He thus prayed for deletion of penalty u/s. 271(1) (b) r.w.s.273B of the act.*

*4.2. On the other hand, the learned Departmental representative strongly supporting the order of the Commissioner of Income-tax (Appeals) submitted that the Assessing Officer has given sufficient time for the assessee to appear for hearing. The assessee neither appeared nor sought any adjournment, therefore, the Ld.AO was right in levying of penalty for non-compliance with the statutory notices issued under sections 143(2) and 142(1) of the Act and his order should be upheld.*

*We have perused the submissions advanced by both sides in light of records placed before us.*

*5. Admittedly, there was a failure on the part of the assessee to respond to the noticed issued by the Ld. AO during assessment proceeding. However, the Legislature provides for immunity from levy of penalty wherever there was a reasonable cause for not complying with the provisions of the Income-tax Act. In other words, section 273B provides for immunity from penalty wherever there was a reasonable cause*

5.1. An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged, either acted deliberately in defiance of law or guilty of conduct, contumacious or dishonest, or acted in conscious disregard to its obligation. Penalty will not also be imposed merely because it is lawful to do so.

5.2. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on consideration of all relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute.

5.3. In the present facts of the case, the Director who underwent huge emotional hardship was the key person responsible for the tax disputes of the assessee. It is also not contradicted that the medical documents filed by the assessee related to the parents of the said Director is false. Therefore, there was sufficient cause on behalf of the assessee for not able to respond to the notices issued during the assessment proceedings due to illness of the Directors father and demise of his mother, along with the fact that assessee had changed the professional during the year to act upon the tax disputes.

5.4. Therefore, the assessee is entitled for exemption under section 273B of the Act. In view of the above, we are unable to uphold the order of the authorities below. We thus direct to delete the penalty levied under section 271(1)(b) of the act in the hands of the assessee.

4. Since on similar facts penalty has been deleted for earlier and subsequent year therefore, penalty levied u/s.271B for the A.Y.2015-16 is also deleted.

**5. In the result, appeal of the assessee is allowed.**

Order pronounced on 28<sup>th</sup> February, 2025.

**Sd/-**  
**(PADMAVATHY S)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 28/02/2025  
KARUNA, *sr.ps*

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**