

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, HON'BLE VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: **3110, 3111 & 3112/Chny/2024**

निर्धारण वर्ष / Assessment Years: 2014-15, 2015-16 & 2016-17

Chenniappan Venkateswaran,
Prop. Anna Cell Com,
255, R.M. Tower Main Road,
Kangayam – 638 701.

[PAN: ADHPV-7648-F]

(अपीलार्थी/Appellant)

Income Tax Officer,
v. Ward -1(4),
Tirupur.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Mr. M. Sathish Kumar, CA

प्रत्यर्थी की ओर से/Respondent by

: Ms. Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing

: 25.02.2025

घोषणा की तारीख/Date of Pronouncement

: 11.03.2025

आदेश /O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

These three appeals filed by the assessee is directed against the separate order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), dated 01.05.2024 and pertains to assessment year 2014-15, 2015-16 & 2016-17. These appeals are heard together and for the sake of convenience we are adjudicating all the appeals together by passing a common order.

2. The following grounds of appeal are raised by the assessee:
 - a) The penalty order is bad in law and against the principles of natural justice.
 - b) The appellant had reasonable cause u/s.273B for non-compliance.
 - c) Erroneous interpretation of law in levying separate penalties for multiple notices.
 - d) The penalty is disproportionate and fails to consider mitigating factors.
 - e) Violation of natural justice and procedural fairness.

3. At the outset, we find that there is a delay of 127 days in all the three appeals filed by the assessee, for which petition for condonation of delay along with reasons for delay has been filed for the all the AYS separately. After considering the petitions filed by the assessee and also hearing both the parties, we find that the assessee was suffering from injury in right ankle and could not move and hence there is a reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of these appeals and admit appeals filed by the assessee for adjudication.

4. The brief facts of the case are that the assessee is an individual and a non filer and carrying on the business of distribution and sale of mobile recharge vouchers and sim cards under the trade name M/s.Anna Cell Com. The assessee was in receipt of commission income and based on the information the case was reopened for assessment and issued statutory notices. However, assessee neither filed his return of income nor responded to the notices of the AO. Accordingly, the AO completed the assessment u/s.147 r.w.s.144 r.w.s.144B of the Act. Subsequently, the penalty proceedings u/s.272A(1)(d) was also initiated for non-compliance of notices issued.

5. During the assessment proceedings the AO had issued statutory notices to file the required details for completing the assessment. However, the assessee had not responded to the said notices and hence the AO levied the penalty u/s.271(1)(b) of the Act for all the three assessment years by passing an order as detailed below:

| Asst. Year | Date of Penalty Order | Penalty |
|------------|-----------------------|-------------|
| 2014-15 | 19/09/2022 | Rs.30,000/- |
| 2015-16 | 19/09/2022 | Rs.30,000/- |
| 2016-17 | 22/09/2022 | Rs.20,000/- |

Aggrieved by the order of the AO, the assessee preferred an appeal before the Id. CIT(A), NFAC, Delhi.

6. After considering submission made by the assessee the Id. CIT(A) passed a separate three orders dated 01.05.2024 and partly allowed the appeal of the assessee as detailed below:

| Asst. Year | Date of Penalty Order | Penalty |
|------------|-----------------------|-------------|
| 2014-15 | 01/05/2024 | Rs.10,000/- |
| 2015-16 | 01/05/2024 | Rs.20,000/- |
| 2016-17 | 01/05/2024 | Rs.10,000/- |

Aggrieved by the order of the Id. CIT(A), the assessee is before us for all the three assessment years

7. The Id.AR submitted that the notices calling for information were issued by the AO to the assessee during the pandemic Covid 19 period affected to the whole world. Hence, operation of business itself was a big challenge during that period and hence non-compliance to the notices were not intentional. Further, I was advised wrongly that the TDS has already been made from the income earned and hence no need to comply to any of the notices. Therefore, the penalty levied under section 271(1)(b) of the Act for non-compliance of notices was not warranted as there was a reasonable cause to the assessee as per the provisions of Section 273B of the Act. In light of the above,

the Id.AR prayed for setting aside the order of Id.CIT(A) by deleting the penalty levied.

9. Per contra, the Id.DR relied on the orders of the Id.CIT(A) and prayed for confirming the same as the Id.CIT(A) has already given a reasonable relief by allowing the appeal of the assessee partly.

10. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The fact with regard to the impugned dispute are that the assessee failed to comply to the notices issued by the AO for the A.Y. 2014-15, 2015-16 & 2016-17 during the assessment proceedings. Accordingly, the penalty u/s.271(1)(b) of the Act has been levied for non-compliances to the notices issued u/s.142(1) of the Act at Rs.10,000/- per notice for all the three assessment years at Rs.30,000/-, Rs.30,000/- and Rs.20,000/- respectively. On appeal to the Id.CIT(A), the penalty has been reduced to Rs.10,000/-, Rs.20,000/- and Rs.10,000/- for A.Ys. 2014-15, 2015-16 & 2016-17 respectively, finding that there was reasonable cause for non-compliance of the few notices. On perusal of notices issued by the AO during the assessment proceedings, we find that there was a huge impact of Pandemic Covid 19 in the entire nation during that period and the Id.CIT(A) has considered the non-compliances had 'reasonable cause' on account of Covid 19 for few notices and deleted the penalty and sustained the balance penalty for

few notices, even though all the notices were issued during the existence of pandemic. Therefore we cannot countenance the action of the Id.CIT(A) in treating the non-compliances of notices in two different views, when the assessment proceedings were taken place during the existence of Covid 19 in the country. In the present facts of the case and in view of the above discussion, we are inclined to set aside the order of the Id.CIT(A) and delete the penalty levied u/s.271(1)(b) of the Act for all the three A.Y. 2014-15, 2015-16 & 2016-17 of Rs.10,000/-, Rs.20,000/- and Rs.10,000/- respectively, holding that the assessee had shown the 'reasonable cause' as per section 273B of the Act.

11. In the result, all the three appeals filed by the assessee for A.Ys. 2014-15, 2015-16 & 2016-17 are allowed.

Order pronounced in the court on 11th, March, 2025 at Chennai.

Sd/-
(जॉर्ज जॉर्ज के)
(GEORGE GEORGE K)
उपाध्यक्ष /**VICE PRESIDENT**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai, दिनांक/Dated, the 11th, March, 2025

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF