

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

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 377/MUM/2025
(Assessment Year: 2013-2014)**

Ritu Verma

1602 Tiara Chs Ltd., Ghodbunder Road,
Hiranandani Estate, Thane (W),
Mumbai 400607
[PAN:APSPV9392R]

..... **Appellant**

Vs

Income Tax Officer Ward 3(2), Thane

Thane – 400607.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Abhimanyu Jamba
For the Respondent/Department : Shri R.R. Makwana

Date

Conclusion of hearing : 11.03.2025
Pronouncement of order : 07.05.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the order, dated 14/10/2024, passed by the National Faceless Assessment Centre, Delhi, [hereinafter referred to as 'the **CIT(A)**'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] whereby the Ld. CIT(A) had dismissed the appeal against the Penalty Order, dated 01/01/2022, passed under Section 271(1)(b) of the Income Tax Act, 1961 for the Assessment Year 2013-2014. As per the registry there is a delay of 20 days in filing the present appeal. In the application seeking condonation of delay it has been explained that the delay in filing the appeal was caused since the counsel for the Assessee was required to attend to immediate

family on account of medical exigency. Therefore, we hold that there was sufficient cause for not filing the appeal within prescribed time and therefore, delay of 20 days in filing the present appeal is condoned. Accordingly, we proceed to adjudicate the following grounds raised by the Assessee in the present appeal:

- "1. *That on the facts and circumstances of the case and in law, the Ld. Commissioner of Income tax (Appeals) (hereinafter referred to as 'Ld. CIT (A)'] has grossly erred in upholding the levy of penalty u/s 271(1)(b) of the Income Tax Act, 1961.*
2. *That on the facts and circumstances of the case and in law, the Ld. CIT (A) has grossly erred in not appreciating the Appellant had substantiated the reasons for non compliance to the notices issued under section 142(1) of the Income tax Act 1961".*

2. We have heard both the sides and perused the material on record.
3. The relevant facts in brief are that the penalty of INR.10,000 was levied on the Assessee under Section 271(1)(b) of the Act for failure to comply with the notice, dated 31/08/2021, issued under Section 143(1) of the Act. Before the CIT(A), it was submitted that mother of Assessee was not keeping well and therefore, notice under Section 142(1) of the Act could not be complied with. However, the CIT(A) declined to grant any relief observing that the Assessee had not participated in the assessment proceedings and assessment was completed under Section 147 read with Section 144 of the Act. Being aggrieved, the Assessee has preferred the present appeal before the Tribunal. The Assessee had placed on record death certificate of her mother in support of the contention that she was not keeping well at the relevant time and therefore, notice issued under Section 142(1) of the Act could not be complied with. We note that notice under Section 142(1) of the Act was issued on 31/08/2021. As per the death certificate, the mother of the Assessee passed away on

31/03/2022. The accompanying medical reports show that she was undergoing medical treatment at the relevant point of time. Therefore, we hold that the Assessee was prevented by reasonable cause from complying with the notice under Section 142(1) of the Act and the default committed by the Assessee was not deliberate. Accordingly, we delete the penalty of INR.10,000/- levied under Section 271(1)(b) of the Act for non-compliance of notice, dated 31/08/2021, issued under Section 142(1) of the Act keeping in view the provisions contained in Section 273B of the Act. In terms of aforesaid, Ground No.1 and Ground No.2 raised by the Assessee are allowed.

4. In result, the appeal preferred by the Assessee is treated as allowed.

Order pronounced on 07.05.2025.

Sd/-
(Renu Jauhri)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated :07.05.2025
Milan, LDC

आदेश की प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai