

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR.**

BEFORE: Dr. M. L. MEENA, ACCOUNTANT MEMBER AND
SHRI NARINDER KUMAR, JUDICIAL MEMBER

ITA No. 651/Jodh/2024
Assessment Year: 2016-17

Kewal Kanwar Bhandari
580 Kewal, 10th C Road,
Sardarpura, Mumbai-
342003.

[PAN: AFIPB5223M]

(Appellant)

Vs. The ITO,
Ward-3(1),
Jodhpur.

(Respondent)

Appellant by : Smt. Raksha Birla, C.A.

Respondent by: Sh. Karni Dan, Addl. CIT (Sr. DR)

Date of Hearing: 30/06/2025

Date of Pronouncement: 07/07/2025

ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER

By way of present appeal, assessee has challenged penalty order passed u/s 271(1)(b) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”).

2. Vide impugned order dated 07.08.2024, Learned CIT(A) has dismissed the appeal filed by the assessee against assessment order dated 07.09.2023, relating to the assessment year 2016-17.

3. Penalty order was passed by the Assessing Officer on 07.09.2023 u/s 271(1)(b) of the Act, thereby imposing on of penalty of Rs. 20,000/-.

4. As is available from the penalty order, penalty came to be imposed due to the reason that the assessee had failed to respond /comply with the notices u/s 142(1) of the Act, issued to him on 16.01.2023 and 08.02.2023, in the course of assessment proceedings, relating to the assessment year 2016-17,.

5. Feeling aggrieved by the penalty order, the assessee challenged the same before Learned CIT(A). Vide impugned order, Learned CIT(A) has upheld the penalty order, by observing in the manner as under:-

“6.2 On going through the order u/s 271(1)(b) passed by the Ld. A.O., it is found that during the assessment proceedings, notice u/s 271(1)(b) were issued for non-compliance of statutory notices issued upon the appellant on 16.01.2023 and 08.02.2023. Further, on perusal of assessment order, it is noticed that the assessment in this case has been completed u/s 147/144 of the Income Tax Act, 1961 and penalty u/s 271(1)(b) was initiated. This means that the appellant has not complied with the notices issued by the A.O. during the assessment proceedings. Even during the penalty proceedings, the appellant has been provided multiple opportunities for furnishing written submission however the appellant has not filed any reply/ submission.

6.3 On going through the submission filed by the appellant during appellate proceedings. The appellant had made written submissions which are as under

"That all the notices were issued by the department in electronic mode and the assessee was not acquainted about online income tax filing and proceeding Further due to technical reason, the notices served on registered mail id were not

received by assessee as he was totally unaware or having no knowledge regarding such proceeding. Therefore non compliances of notices were made during the assessment proceeding for which the assessee is regret.”

The reply submitted by appellant during the penalty proceedings can not be considered logical for the purpose of reasonable cause. It is very clear that there is no technicality involved in the reason stated by the assessee "Ignorantia Juris non excusat or ignorantia legis neminem excusat" is a legal principle, holding that a person who is unaware of the law may not escape liability for violating that law merely by being unaware of its content. The appellant failed to prove that there was a reasonable cause for the said failure. Therefore, I am of the considered opinion that the Ld. AO has rightly levied the penalty u/s 271(1)(b) of the IT. Act, 1961. Thus, the appeal raised by the appellant is dismissed.”

6. Arguments heard. File perused.

Contentions

7. Ld. AR for the appellant has submitted that non compliance with the notices issued u/s 142(1) of the Act during assessment proceedings, relating to the assessment year 2016-17 was not intentional.

Another submission by Learned AR is that since Learned CIT(A) condoned the delay in filing of the appeal, penalty order deserved to be set aside on the very grounds put forth for condonation of delay.

8. On the other hand, Ld. DR for the department has submitted that the matter of condonation of delay in filing of the appeal by the assessee before CIT(A) is different

from the matter regarding non compliance non compliance by the assessee with the notices u/s 142(1) of the Act.

Ld. DR has further submitted that the assessee nowhere disputed service of the above said two notices on his registered e-mail ID, and that in the given situation, it was for the assessee to explain as to why he did not comply with the said notices. The contention is that the assessee having failed to discharge said onus, the Assessing Officer was justified in imposing penalty for the non compliance, and CIT(A) was also justified in sustaining the penalty order, for the reasons recorded in the impugned order.

Discussion

9. The impugned penalty order came to be passed due to non compliance with the notices u/s 142(1) of the Act, issued on 16.01.2023 and 08.02.2023, in the course of assessment proceedings, relating to the assessment year 2016-17.

10. Before the Assessing Officer, the assessee did not dispute or challenge delivery of the said two notices dated 16.01.2023 and 08.02.2023, issued u/s 142(1) of the Act on his registered e-mail ID. In the given situation, it was for the assessee to satisfy the Assessing Officer as to why he could not comply with.

11. Record reveals that before passing of penalty order, the Assessing Officer issued him show cause notice dated 09.05.2023 and 28.07.2023, but he did not

furnish any response thereto as well. This fact also speaks volumes against the conduct of the Assessee.

12. Since the assessee failed to furnish any sufficient cause for non compliance of notices u/s 142(1) of the Act, i.e. dated 16.01.2023 and 08.02.2023 delivered at his registered e-mail ID, the Assessing Officer imposed penalty of Rs. 20,000/- u/s 271(10(b) of the Act.

13. When the applicant admitted delivery of the two notices on his registered e-mail ID, it was for the assessee to prove as to which technical reason prevented him from going through contents of the said notices so delivered by registered e mail ID. However, the assessee failed to specify any such technical reason. So, the fact remains that the assessee applicant remained non compliant with the notices issued u/s 142(1) of the Act, and duly served upon him on his registered e mail ID.

Feeling aggrieved by the said order, the assessee challenged the same before Learned CIT(A) by filing appeal on 15.02.2024.

There was delay of more than 4 months in filing of the appeal. However, Learned CIT(A) condoned the delay and treated the appeal to have been filed within time. In para 2.1 of the impugned order, Learned CIT(A) reproduced averments put forth by the applicant with prayer for condonation of delay in filing of the appeal. In Para 1 of the said application seeking condonation of delay, the assessee-applicant

claimed that all the notices were issued by the department by electronic mode. He admitted to have received notices on his registered e-mail ID, but at the same time claimed that same were not received by him, *due to some technical reason*, and that *he was having no knowledge regarding said proceedings*.

In the application seeking condonation of delay of 4 month, he was required to explain sufficient cause for non filing of the appeal. As regards non compliance with notices issued u/s 142(1) of the Act on 16.01.2023 and 08.02.2023, he was to put forth sufficient cause for said non compliance. Therefore the subject matter of the penalty order was different from the subject matter of the order condoning delay in filing of appeal.

Simply because Learned CIT(A) condoned the delay of more than 4 months in filing of the appeal, said fact cannot be considered as “sufficient cause” even for non compliance of the notices.

Result

14. In view of the above discussion, and for the reasons recorded by the Assessing Officer and also by Learned CIT(A), when the assessee-applicant failed to discharge onus to establish that there was any sufficient cause for non compliance with the said two notices u/s 142(1) of the Act, we do not find any merit in this appeal. Accordingly, this appeal is hereby dismissed.

Judicial Member having joined and presided over through virtual mode from Jaipur Benches, order needs pronouncement under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 by placing the details on the notice board.

File be consigned to the record room after the needful is done by the office.

Sd/-

(Dr. M. L. Meena)
Accountant Member

Date: 07/07/2025

**Santosh*

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

Sd/-

(Narinder Kumar)
Judicial Member

By Order

Asstt. Registrar