

आयकर अपीलीय अधिकरण, इंदौरन्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER,
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER,

ITA No.6/Ind/2025
Assessment Year: 2014-15

RSRG Devbuild Private Limited, LG-39, BCM Heights, Scheme No.54, PU-4, Indore (Appellant / Assessee)	<u>बनाम/</u> <u>Vs.</u>	ITO-4(1), Indore (Respondent / Revenue)
PAN: AAGCR6574H		
Assessee by	Shri S. S. Deshpande, CA	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	16.07.2025	
Date of Pronouncement	17.07.2025	

आदेश/O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal dated 26.12.2024 passed by learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ["CIT(A)"] by which the penalty-order dated 01.09.2022 passed by ITO, 4(1), Indore ["AO"] imposing a penalty of Rs. 10,000/- u/s 271(1)(b) of Income-tax Act, 1961 ["the act"] has been upheld, the assessee has filed this appeal on following grounds:

"1. The order of the Ld. NFAC is illegal and bad in law since the notices were not served physically but issued on e-mail.

1.1 The Ld. CIT NFAC has erred in passing the order the notice 142(1) was issued which could not be complied with because of hospitalisation of the counsel who ultimately passed away. Since, there was a reasonable cause non compliance and as such the penalty levied may please be cancelled.

2. The Ld. CIT NFAC has erred in maintaining the penalty u/s 271(1)(b) when the quantum appeal is pending before the Ld. CIT(A).

3. The penalty u/s 271(1)(b) may please be cancelled.

4. The assessee craves to amend, alter or delete any of the ground of appeal."

2. Heard the learned Representatives of both sides and the case records perused.

3. Ld. AR for assessee at first carried us to the penalty order dated 01.09.2022 passed by AO to demonstrate that the AO has imposed penalty for assessee's failure to comply with the notice dated 13.03.2022 u/s 142(1) of the Act. Thereafter, he submitted with a heavy heart that the said failure on the part of assessee had in fact occurred due to the hospitalization and demise of the regular counsel of assessee, Shri Sandeep Deshpande (son of Ld. AR himself). Therefore, Ld. AR submitted that there was a reasonable cause on the part of assessee for occurrence of failure and the assessee is entitled to the benefit of section 273B which must be given. Ld. AR further submitted that due to the demise of counsel, no reply could be filed to the AO in response to the notice issued u/s 274 r.w.s. section 271(1)(b) for

imposition of penalty. Ld. AR prayed to delete the penalty having regard to the provision of section 273B.

4. Ld. DR for revenue was fair enough in not raising any objection to the submissions and prayer made by Ld. AR.

5. We refer the provision of section 273B reading as under:

"273B. Notwithstanding anything contained in the provisions of clause (b) of sub-section (1) of section 271,, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure."

6. In present case, we find that as per explanation made by Ld. AR, the failure to comply with the notice u/s 142(1) issued by AO has occurred due to hospitalization and demise of regular counsel of assessee. This very reasoning was also mentioned by assessee in the "Statement of Facts" filed to the CIT(A) in Form No. 35 and also raised in Ground No. 1.1 before us (re-produced above). The reasoning given by assessee remains uncontroverted by revenue. We agree that the reasoning given by assessee constituted a 'reasonable cause' of failure on the part of assessee and the assessee deserves benefit of section 273B as noted above. Accordingly, giving the benefit of section 273B to assessee, we quash the penalty imposed by AO and allow this appeal of assessee. The assessee succeeds in this appeal.

7. Resultantly, this appeal of assessee is allowed.

Order pronounced in the open court on 17/07/2025

Sd/-

(PARESH M.JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक/Dated : 17.07.2025

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore