

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “C”, DELHI**

**BEFORE SH. SUDHIR KUMAR, JUDICIAL MEMBER
AND
SH. MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.6159/DEL/2024
Assessment Year: 2016-17

Kusum A-38, IInd Floor, Gali No.2, Madhu Vihar, Delhi-110092 Pan No.ARFPK1002Q	Vs.	AO, Vikas Bhawan, Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. R. K.Gaur, AR
Respondent by	Sh. Om Prakash, Sr. DR

Date of hearing:	28/08/2025
Date of Pronouncement:	28 /08/2025

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

This appeal by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [hereinafter referred to as “NFAC”] vide order dated 26.12.2024 pertaining to A.Y. 2016-17 arising out the penalty order dated 15.09.2022 u/s.271 (1)(b) of the Income-tax Act, 1961, (in short ‘the Act’).

2. The assessee has raised the following grounds in appeal as under:

1. *On the facts and circumstances of the case and in law the levy of penalty under section 271(1)(b) is illegal in the wake of non service of the notices.*
2. *The facts and circumstances of the case and in law the levy of penalty under section 271(1)(b) is without due application of mind purely on the conjecture and surmises of the AO.*
3. *The facts and circumstances of the case and in law, the order of Ld. AO is bad in law and liable to be quashed.*

3. The brief facts of the case are that the assessee is an individual and a proprietor of M/s. Pramod Engineering. The assessee has filed return of income declaring total income at Rs.8,73,910/- on 17-10-2016 for the A.Y.2016-17. Information received the department that the assessee made bogus purchase aggregating to Rs.38,03,975/- during the year under consideration.

4. The case of the assessee was reopened u/s. 147 of the Act and notice u/s. 148 was issued on 31.03.2021. The assessee did not file any reply in response to the notice. The AO completed the assessment and penalty proceedings also initiated against the assessee.

5. The AO made the addition of Rs.38,63,915/- on account of the bogus purchase u/s. 69C of the Act. The assessee did not appear before the Assessing Officer in the compliance of the statutory notice dated 12-11-2021, 03-02-2022, and 26-03-2022. The Assessing Officer levied the penalty of Rs.10,000/- for each default amounting Rs.30,000/-. Aggrieved the order of the Assessing officer, the assessee filed the appeal before the Ld. NFAC who vide order dated 26.12.2024 dismissed the appeal of the assessee.

6. Aggrieved by the order of the NFAC, the assessee is in appeal before us.

7. The Ld. AR of the assessee submitted that assessee has not been deliberately avoid the notice. The appeal of the assessee has been allowed by the Ld. NFAC against the assessment order and matter was remanded back to the AO. He further submitted that post demise of her spouse due the COVID, business was looking after by her and the notice was mailed on the email ID of her demise spouse and by this reasons the notices were left non-complied.

8. The Ld. DR has submitted that the assessee has not appeared before the AO in the compliance of the notice. The penalty was rightly levied on the assessee

9. We have heard the rival contentions and perused the material available on record. From the perusal of the order of the u/s. 271(1B) of the Act reveals that assessee did not comply the notices before the AO and the AO levied the penalty of Rs.10,000/- for each failure. The assessee has not complied the notice because the notice was mailed on the ID of her demise spouse. The assessee has shown the sufficient reason for non-compliance of the notices. The assessee did not avoid the notice deliberately, therefore, penalty levied by the AO is liable to be deleted. Thus, the appeal of the assessee is allowed and penalty levied by the AO and confirmed by the Ld. NFAC is deleted.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court 28.08.2025.

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Neha, Sr. PS
Date: 10.09.2025

Sd/-
(SUDHIR KUMAR)
(JUDICIAL MEMBER)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT DELHI