

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

**ITA No.1804/Kol/2025
Assessment Year: 2019-20**

**Krishna Chandra Das.....Appellant
Ramkrishnanagar Laskarpur,
Alipore, 24 Parganas (S),
W.B - 743515.
[PAN: AJAPD6700B]**

vs.

ITO, Ward-25(1), Kolkata.....Respondent

Appearances by:

Shri B. B. Payra, Advocate, appeared on behalf of the appellant.

Shri Dipu Koley, Addl. CIT-Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 27, 2025

Date of pronouncing the order : December 02, 2025

ORDER

Per Pradip Kumar Choubey, Judicial Member:

This appeal filed by the assessee is directed against the order dated 24.06.2025 of the National Faceless Appeal Centre passed under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2019-20.

2. Brief facts of the case are that the assessee had not filed original Return of Income for the A.Y. 2019-20. In the absence of voluntary compliance, the Assessing Officer initiated reassessment proceedings u/s 147 r.w.s. 144 of the Act by making following additions:

- i. Short Term Capital Gain u/s 45 amounting to Rs. 2,25,001/-.
- ii. Income from other sources u/s 56 amounting to Rs. 84,644/-.
- iii. Salary Received u/s 15 amounting to Rs. 34,64,292/-.
- iv. Unexplained Investment U/s 69B amounting to Rs.70,79,999/-.

v. Unexplained Money U/s 69A amounting to Rs. 19,64,920/-

2.1 During the assessment proceedings, the Assessing Officer issued statutory notices but the assessee remained non-responsive, consequently the Assessing Officer issued multiple show-cause notices proposing of levying of penalty u/s 272A(1)(d) of the Act.

3. Being aggrieved by the said order, the assessee filed an appeal before the Ld. CIT(A) wherein also the appeal of the assessee has been dismissed.

4. Being aggrieved and dissatisfied by the order of the Ld. CIT(A), the assessee has filed this appeal before us thereby submitting that the assessee was a permanent employee under the Ministry of Defence since 1988 and during the last part of his service life, he was posted in Himachal Pradesh wherefrom he had retired in 2018. The ld. AR submits that during the last period of posting in Himachal Pradesh, he filed his Income Tax Return for the first time on line with the help of a Tax Consultant and at the time of filling up the said return, the said Tax Consultant mentioned his own e-mail ID and mobile number. It is further submitted that during the assessment proceedings, the Assessing Officer issued notices u/s. 142(1) of the Act and the show cause notices during the Penalty Proceeding u/s 272A(1)(d) of the Act were issued in E-mail ID of the Tax Consultant. The ld. AR further submits that there was neither any personal relation nor any connection between the assessee and the said Tax Consultant and all the notices from the department were received by the Tax Consultant through his e-mail ID and the same were not communicated to the assessee and accordingly the assessee was totally unaware of issuance of notices during the assessment proceedings. The ld. AR also submits that the ld. CIT(A) did not consider the ground of non-compliance which is evident from the notices issued to the assessee. The ld. AR further submits that

penalty had been imposed on account of non-compliance and he, therefore, prayed that the penalty may be deleted as there was reasonable ground for the assessee for the non-compliance.

5. Contrary to that, the ld. DR supports the impugned order.

6. Upon hearing the submissions of the counsels of the respective parties and we have perused the impugned order and find that the assessee was employed under the Ministry of Defence since 1988 and retired in 2018 and at the time of filing of Income Tax Return on line for the year under consideration, the then tax consultant of the assessee mentioned the e-mail ID and mobile number of his own instead of the assessee itself. We further find that during the assessment proceedings and penalty proceeding u/s 272A(1)(d) of the Act, all the notices were issued in the wrong E-mail address provided by the Tax Consultant and the assessee was fully ignorant of issuance of such notices. We note that the ld. CIT(A) dismissed the appeal without considering the reasons for non-compliance which is evident from the notices issued. It is important to note that the Assessing Officer issued show-cause notice on 04.06.2024 which was replied the same by the assessee on 05.06.2024. We place reliance in the decision of the Coordinate Delhi Bench of the Tribunal in the case of Geetu Kamra vs. ITO passed in ITA No.5144/Del/2024 dated 27.02.2025 wherein it was held as under:

“5. Ld. AR of the assessee submitted that, the Ld. CIT(A) had erred in sustaining the penalty of Rs. 10,000/- imposed on the assessee by the AO u/s 272A(1)(d) for non-compliance of the notice issued u/s 142(1) dt. 02.11.2019. Whereas the assessee has furnished all the necessary information during the course of assessment proceedings in response to subsequent notices issued by the AO and the assessment was completed u/s 143(3) of the Act. He further placed reliance on the decision of the coordinate bench of Allahabad Tribunal in the case of Gyan Mata Radha Satyam Kriyayog vs ITO, Ward 12, Allahabad dt. 25/02/2021 in ITA No. 95/ALLD/2020 wherein it is held as under:

"On the one hand, the Assessing Officer has given the date of compliances in the above table whereas the penalty was imposed on the ground that the above notices were not complied by the assessee. Further, the Assessing Officer has also stated that the assessee has not made compliance to the show cause notice issued u/s. 271(1)(b). However, that cannot be a ground for imposition of penalty u/s. 271(1)(b) of the Act. In the quantum appeal, the ld. CIT(A) vide its order dated 22.09.2020 has deleted the addition made by the Assessing Officer and therefore, it amounts to acceptance of the explanation of the assessee filed during the assessment proceedings. Hence, in the facts and circumstances of the case and in view of Section 273B of the Act when the assessee has finally complied with the notice issued by the Assessing Officer the penalty is not imposable as the explanation filed by the assessee was finally found to be correct and accepted in the quantum appeal. Consequently, the penalty levied u/s. 271(1)(b) of the Act is deleted."

6. Thus the ld.AR submits that when the assessment was completed u/s 143(3) of the Act, the AO is deemed to have condoned the absence of the assessee or his authorized representative on earlier occasion when subsequently, the details were furnished by him and the assessments were ultimately completed u/s 143(3) of the Act. Therefore, penalty for non-compliance at one occasion cannot be made. He therefore, prayed to delete the penalty.

7. On the contrary, Ld. Sr. DR on behalf of the revenue have vehemently supported the order of revenue authorities.

8. We have considered the rival submissions and perused the material available on record and case laws relied upon by the assessee. Admittedly, in the present case, the assessee failed to respond to the notice issued u/s 142(1) of the Act dt. 02.11.2019, however, in response, subsequent notices, the assessee has made necessary compliances and thereafter the assessment was completed u/s 143(3) of the Act. Therefore, by respectfully following the decision referred to (supra), we find that the penalty-imposed u/s 272A(1)(d) of the Act is not justifiable in the present case. Further the AO himself has deemed to have condoned the default of assessee of making non-compliance on earlier occasion as the assessment was finally passed u/s 143(3) of the Act after considering the necessary information and evidences furnished by the assessee subsequently. Under these circumstances, we set aside the order of Ld. CIT(A), and direct the AO to delete the penalty.

9. As a result, appeal of the assessee is allowed."

7. Going over the above discussion and considering the judicial precedents, we set aside the order of Ld. CIT(A), and direct the Assessing Officer to delete the penalty.

8. In the result, the appeal filed by the assessee is allowed.

Kolkata, the 2nd December, 2025.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 02.12.2025.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches