

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

**BEFORE: SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI. KRINWANT SAHAY, ACCOUNTANT MEMBER**

ITA No. 2290 /Del/2025
Assessment Year : 2017-18

Gopal Aggarwal 1498, Sector 7E, Faridabad Haryana-121006	Vs.	The ITO (OSD) Faridabad
PAN NO: ATYPA3078P		
Appellant		Respondent

Assessee by : Manish Kumar, Advocate
Revenue by : Shri Manish Gupta, Sr. DR

Date of Hearing : 25/09/2025
Date of Pronouncement : 30/12/2025

Order

PER KRINWANT SAHAY, A.M:

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt 10/02/2025 for the Assessment Year 2017-18.

2. In the present appeal Assessee has raised the following grounds:

1. *The Ld. CIT (Appeals) in the facts of the case while upholding the levy of penalty under section 272A(1)(d) erred in not appreciating that during the course of assessment proceedings the various statutory notices (four in numbers) under section 142(1) reminded uncommunicated with the assessee and therefore, the Assessing Officer had passed the ex-parte assessment order under section i 44 of the Act.*

2. *The Ld. CIT (Appeals) in the facts of the case erred in not appreciating that being aggrieved with the ex-parte assessment order the assessee had filed appeal before the CIT(A) wherein one of the grounds raked up was against the ground concerns with lack of opportunity.*

3. *The Ld. CIT(Appeals) in the facts of the case while upholding the impugned penalty erred in not appreciating that during the course of assessment proceedings various statutory notices u/s 142(1) were issued to the assessee through the registered portal but the same remained uncommunicated on*

account of the fact that the portal ID was under control of the CA and no respective e-mail or SMS alert message was directly delivered to the assessee.

4. That in the facts and circumstances of the case the Ld. CIT(A) erred in not appreciating that that despite issuance of various statutory notice under section 142 (1) of the Act and in response thereto the non-representation in the case by the assessee was neither intentional nor deliberate but on account of the reason which was beyond the control of the assessee as no notice had in fact been communicated to the assessee and hence the cause of non-appearance in fact amounts to be a reasonable cause.

5. The appellant, craves leave to add, amend, alter or delete any or all the above grounds of appeal during the course of hearing.

3. Briefly the facts of the case are that the assessee filed his return of income for Assessment Year 2017–18 on 31.03.2018 declaring a total income of Rs. 5,49,080/-. The case was selected for scrutiny under CASS on account of significant cash deposits during the year, pursuant to which the Assessing Officer issued a notice under section 143(2) followed by statutory notices under section 142(1) dated 19.09.2019, 12.10.2019, 28.10.2019 and 13.11.2019. As there was no compliance to the said notices, the AO proceeded to frame an ex parte assessment under section 144 of the Act on 20.12.2019 and simultaneously initiated penalty proceedings under section 272A(1)(d) for failure to comply with the statutory notices. The AO observed that despite service of notices through the registered e-mail ID and availability of the same on the e-filing portal, the assessee neither furnished the required details nor offered any explanation, and even in response to the show-cause notice dated 22.05.2021, the assessee pleaded ignorance of electronic notices on the ground that he was a proprietor not conversant with computers and that his accountant, who handled the accounts, was on leave due to the COVID-19 pandemic and no physical notices were served. The AO rejected the said explanation, holding that the assessee's non-compliance obstructed the assessment proceedings, and considering it a fit case, levied a penalty of Rs. 40,000/- under section 272A(1)(d)

4. Aggrieved by the penalty order, the assessee preferred an appeal before the Ld. CIT(A). The assessee argued that the notices remained

uncommunicated as the portal ID was managed by his Chartered Accountant and no direct e-mail or SMS alerts were received by him. It was further requested that the penalty appeal be kept in abeyance pending the outcome of the quantum appeal. The Ld. CIT(A) dismissed these contentions, observing that the AO had provided four distinct opportunities and that the appellant failed to prove "reasonable cause" for the failure. The Ld. CIT(A) held that the behavior was consistently non-compliant and upheld the AO's penalty order, dismissing the appeal.

5. Against the order of the Ld. CIT(A) the assessee preferred in appeal before the Tribunal.

6. During the course of hearing the Ld. AR for the assessee contended that the non-compliance with the statutory notices issued under section 142(1) was neither intentional nor deliberate but was caused by a lack of actual communication. It was submitted that the notices were merely uploaded on the e-filing portal, which was managed by the assessee's Chartered Accountant, and since no secondary alerts via email or SMS were received directly by the assessee, he remained unaware of the proceedings.

7. Per contra, the Ld. DR relied on the orders of the lower authorities.

8. We have heard the rival contention and perused the material available on the record. In the present case the core issue is whether the penalty under section 272A(1)(d) is sustainable when the notices were only uploaded on the e-filing portal. The assessee has contended that these notices remained uncommunicated as they were not backed by email or SMS alerts. We find that this issue is squarely covered by the judgment of the Hon'ble Punjab & Haryana High Court in the case of *Munjal BCU Centre of Innovation and Entrepreneurship vs. CIT (Exemptions)* [2024] 463 ITR 424 (P&H). In the said judgment, the Hon'ble High Court categorically held that an assessee cannot be expected to keep the portal open all the time to monitor Departmental activity and that mere

uploading on the portal does not constitute sufficient service if it leads to a violation of natural justice.

8.1 In the present case, the non-compliance on the part of the assessee was on account of absence of actual knowledge of the notices uploaded on the Income-tax portal, which constitutes a reasonable cause for such non-compliance. Respectfully following the binding precedent of the jurisdictional High Court, we hold that a penalty cannot be sustained merely on the basis of notices remaining on the portal without there being any evidence of effective service or communication to the assessee. Accordingly, the order passed by the Ld. CIT(A) is set aside and the penalty of Rs.40,000/- is hereby deleted.

9. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open Court on 30.12.2025

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(KRINWANT SAHAY)
ACCOUNTANT MEMBER

AG

Copy of the order forwarded to :

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

Assistant Registrar
ITAT, NEW DELHI