



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपील सं/ .ITA No. 620/RJT/2025
निर्धारण वर्ष/Assessment Year : 2017-18

Shri Dharmendry Bhatta. Deep, 41- Anant Nagar Society, Kalawad Road, Rajkot - 360005	बनाम/ Vs	Income Tax Officer, Ward 1(1)1 Aaykar Bhawan, Race Course Ring Road, Rajkot -360005
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AEBPB0458E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Mehul Ranpura, Ld. AR

राजस्वकी ओर से / Revenue by : Shri Anadi Dixit, Ld. Sr. DR

सुनवाई की तारीख/Date of Hearing : 23/10/2025

घोषणा की तारीख/Date of Pronouncement : 12/01/2026

आदेश/Order

Per Dr. Arjun Lal Saini, A.M

Captioned appeal filed by assessee pertaining to Assessment Year 2017-18, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals) ('CIT(A)'), dated 22.07.2025, which in turn arises out of penalty order passed by Assessing Officer u/s. 272A of the Act on 27.03.2022.



2. Grounds of Appeal raised by the assessee, are as follows:

1. Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as the "CIT(A)"] erred on facts as also in law in confirming penalty of Rs. 50,000/- levied u/s. 272A(1)(d) of the Act. The penalty levied u/s. 272A(1)(d) of the Act is totally unjustified on facts as also in law may kindly be deleted.

2. Your Honour's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.

3. Brief facts qua the issue are that in the instant case the assessee did not file return of income for the period under consideration. Further, as per the information available with the data base of the department, it was observed by AO that assessee entered into transaction of purchase of immovable property. A survey action w/s 133A of the I.T. Act, was carried out on 02/04/2019 in the case of M/s Six Twenty Realty Pvt. Ltd. During the course of survey, inter-alia one folder containing various excel sheets was found from the email of Shri Yagnesh Jogi accountant of M/s Six Twenty realty Pvt. Ltd, Rajkot from site office of Dream City project of M/s Six Twenty Realty Pvt Ltd at B/h Aalap Green City Ralya Road, Rajkot during survey proceedings. The print out of excel sheets found from the email of Shri Yagnesh Jogi accountant were taken and impounded as per Annexure A/5. The excel sheets impounded at pages 43 to 55 in Annexure-5 have details of various financial transaction i.e. booking details and payment received against the sale of flats of Dream city. The company i.e. M/s Six Twenty Realty Pvt. Ltd has received on money which is over and above the registered value of the flats in the cash against sale of flats in various financial years. The assessee purchased a flat from M/s Six Twenty Realty Pvt. Ltd and paid a total of Rs. 25,11,000/-. Since the assessee did not file return of income for the period under review, therefore, the case of the assessee was reopened by issuing notice u/s 148 of the Act on 31/03/2021. In response, the assessee filed return of income declaring total income at Rs. 2,89,190/-. Further, the assessment proceedings in the instant case has been completed u/s 147 r.w.s 144B of the I.T. Act, 1961 on



27/03/2022 by making addition of Rs. 6,11,000/- to the total income of the assessee treating it as unaccounted investment for the A.Y. 2017-18. Also, penalty proceedings u/s 271A(1)(d) of the I. T. Act are initiated vide Assessing Officer show cause dated-27/03/2022 for non compliance to statutory notices issued u/s 142(1) of the I.T. Act, 1961.

4. Further, during the course of E-proceedings, several notices u/s 142(1) of Act was issued and served upon the assessee from time to time through Registered Email id/RPAD of the assessee, but only part compliance was made by the assessee. The assessee was issued notices. However, in view of non-compliance on part of the assessee to above referred notices, lead to initiation of penalty proceedings u/s.272A(1)(d) of the Act. Accordingly, a show cause notice was issued to the assessee dated 27/03/2022 calling for assessee's explanation, if any, on non-compliance during the course of assessment proceedings. However, no response was received. Further, a fresh opportunity of being heard is given vide penalty show cause notice dated on 27/08/2022 requiring therein the assessee to furnish its explanation if any on or before 03/09/2022. However, in response to the said show cause notices issued, neither any reply received nor uploaded on portal.

In view of the above facts, it is very clear that despite the assessee has been given ample opportunities to place his stand if any, there was no compliance on part of the assessee which shows his deliberate and conscious disregards to the statutory notices issued u/s.142(1) of the Act. In the circumstances and facts of the case as discussed above, it is held that the assessee has failed to comply with the statutory notices u/s. 142(1) of the Act on various date without any reasonable cause. Therefore, the AO was of the view that as per the provisions of sec.272A(1)(d) of the I.T. Act penalty of Rs.10,000 is to be levied for each such default. It is seen that the assessee failed to comply with the statutory notices



issued u/s. 142(1) of the Act dated 19/11/2021 & 30/12/2021, 27/01/2022, 17/02/2022 & 15/03/2022. Accordingly, AO imposed penalty of Rs. 50,000 /-u/s. 272A(1)(d) of the I.T. Act 1961.

5. Aggrieved by the order of assessing officer, the assessee carried the matter in appeal before the Ld.CIT(A), who has confirmed the addition made by the assessing officer. The Ld.CIT(A) noticed that although the notices were served on the e-mail id of the husband of the assessee, despite of this the assessee (wife) did not appear before AO, and did not make the compliance of various notices, hence, AO has rightly imposed the penalty. This way, the Ld.CIT(A) has confirmed the penalty imposed by the assessing officer.

6. Aggrieved by the order of Ld.CIT(A), the assessee is in further appeal before this Tribunal.

7. The Learned Counsel for the assessee argued that notices were issued on wrong e-mail id, by the assessing officer, hence, there was no compliance by the assessee. Even the husband of the assessee was suffering continues illness, hence could not access the email-id. The appellant stated that the mail-id which is registered in income tax site is belonging to her husband and all the notices issued have been sent to mail id of husband. In this regard it was submitted that husband was sick therefore could not open his mail. Therefore, assessee was totally unaware about ongoing assessment proceeding and came to know when, she received the demand notice. Thereafter, Ld.Counsel contended that assessee has explained the sufficient cause, hence penalty may be deleted.



8. On the other hand, the Ld. DR for the revenue relied on the finding of the assessing officer. The Ld. DR also submitted that the approach and reply of the appellant is casual. Not checking the e-mail on time is only negligence on the part of the assessee and for lack of her own vigilance, the assessee has to face the consequences. Therefore, gross negligence is noted in this case on the part of the assessee. The assessment was completed ex party because of casual approach on the part of the assessee. Considering these facts, the penalty levied by the Assessing Officer is found to be justified and may be upheld.

9. I have heard both the parties. I note that assessee has herself registered her e-mail with the Income Tax Department. However, Income Tax Department (AO) issued notices on the e-mail id of her husband, hence assessee was not aware about the notices issued by the AO. I also note that husband of the assessee could not open his e-mail id, as the husband was feeling severe illness and the assessing officer did not send the notices on the e-mail id of the assessee (herself), which was registered with Income Tax Department. I note that when assessee herself had furnished his e-mail id to the Income Tax Department, then AO should have served the notices on the e-mail id of the assessee and not on the e-mail id of her husband. The Law is well settled that when the statute required to do certain thing in certain way, the thing must be done in that way or not at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal position is based on a legal maxim "Expression unius est exclusion alterium" meaning thereby that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner. Hence, I note the AO has failed to issue notices on the e-mail id of the assessee(herself), hence, penalty should not be levied on the assessee, Therefore, it is a sufficient cause for not



attending various notices, hence the penalty so levied by the assessing officer should be deleted, hence I delete the penalty of Rs.50,000/-.

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

Order is pronounced in the open court on 12/01/2026.

Sd/-
(Dr. Arjun Lal Saini)
Accountant Member

Rajkot
दिनांक/ Date: 12/01/2026

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

/True Copy/

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot