

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

I.T.A. No.469/Ind/2025
(Assessment Year: 2016-17)

Manju Yadav, 52/2, Nehru Nagar, Indore, Madhya Pradesh-452001	Vs.	Income Tax Officer-1(2), Indore
PAN No. BTSPM1614E		
(Appellant)	..	(Respondent)

Appellant by :	Shri S. N. Agarwal, C.A.
Respondent by:	Shri Ashish Porwal, Sr. DR

Date of Hearing	18.12.2025
Date of Pronouncement	13.01.2026

ORDER

PER SIDDHARTHA NAUTIYAL - JM:

The present appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 10.03.2025 passed for A.Y. 2016-17.

2. The Assessee has raised the following grounds of appeal:

“1. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the action of the Assessing Officer in levying penalty of Rs. 10,000/- under section 271(1)(b) of the Act without properly appreciating the facts of the case and submissions made before him/her.

2. The appellant reserves the right to add, alter and modify the grounds of appeal as taken by her.”

3. The brief facts of the case are that the assessee, Smt. Manju Yadav, did not file her return of income for A.Y. 2016–17. Based on information

relating to purchase of immovable property and cash deposits in her bank account, the Assessing Officer initiated reassessment proceedings against the assessee and the assessment was completed under section 147 read with section 144 of the Income-tax Act, 1961 (“the Act”). In the course of such assessment proceedings, the Assessing Officer issued a notice under section 142(1) of the Act dated 25.01.2024 asking for certain details. According to the Assessing Officer, there was no compliance to the said notice within the prescribed time and, therefore, the assessment was framed ex parte by making additions on account of alleged unexplained cash deposits and unexplained investment in immovable property. Simultaneously, the Assessing Officer also initiated penalty proceedings under section 271(1)(b) of the Act for non-compliance of the notice issued under section 142(1) of the Act. During the course of penalty proceedings, show cause notices dated 15.03.2024 and 30.04.2024 were issued. The assessee furnished her reply contending, inter alia, that the notice under section 142(1) of the Act dated 25.01.2024 was never served upon her either through e-mail or by post and, therefore, there was reasonable cause for the alleged non-compliance. The assessee also submitted that the assessment order itself had been challenged in appeal before the learned CIT(A) and the said appeal was pending, and hence the penalty proceedings ought to be kept in abeyance. The Assessing Officer, however, rejected the explanation of the assessee by observing that the notice under section 142(1) of the Act was duly delivered on the assessee’s e-filing portal and that the pendency of the appeal against the assessment order had no bearing on the penalty proceedings. Accordingly, the

Assessing Officer levied a penalty of ₹10,000/- under section 271(1)(b) of the Act for non-compliance of the notice dated 25.01.2024.

4. Aggrieved, the assessee carried the matter in appeal before the learned CIT(A). The learned CIT(A) examined the penalty order and the submissions of the assessee and upheld the action of the Assessing Officer. The learned CIT(A) held that the notice under section 142(1) of the Act was duly served on the assessee through the e-filing portal, that the assessee failed to demonstrate any reasonable cause for non-compliance, and that the pendency of the appeal against the assessment order did not affect the validity of the penalty proceedings. On this reasoning, the learned CIT(A) confirmed the penalty of ₹10,000/- imposed under section 271(1)(b) of the Act and dismissed the appeal of the assessee.

5. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

6. Before us, the learned counsel for the assessee reiterated the submissions made before the lower authorities. It was submitted that the very foundation of the penalty, namely, non-compliance of notice dated 25.01.2024, is unsustainable as the said notice was never actually served upon the assessee either through e-mail or by physical mode. Reliance was placed on the screenshot of the income-tax portal to demonstrate that the notice was merely uploaded and there was no effective service resulting in the assessee being made aware of the same. It was argued that penalty under section 271(1)(b) is not automatic and can be levied only where there is a willful and deliberate failure to comply with statutory notices, which

is absent in the present case. It was thus pleaded that the penalty imposed deserves to be deleted.

7. We have heard the rival contentions and perused the material available on record. It is an undisputed fact that the assessment for the year under consideration was completed ex parte under section 144 of the Act and that the penalty under section 271(1)(b) has been levied solely on the alleged non-compliance of a single notice issued under section 142(1) of the Act dated 25.01.2024. From the record, it is evident that the assessee has consistently taken the stand that the said notice was never effectively served upon her and that she was, therefore, prevented by reasonable cause from complying with the same. It is also a matter of record that the assessee has contested the assessment order by filing an appeal before the learned CIT(A), which demonstrates that there was no intention on her part to disregard the proceedings under the Act.

8. It is well settled that penalty under section 271(1)(b) is not mandatory and cannot be imposed merely because there is a technical or venial breach of a statutory provision. The authority levying the penalty is required to examine whether there was a reasonable cause for the alleged non-compliance and whether the conduct of the assessee was contumacious or deliberate. In the present case, considering the overall facts and circumstances, including the dispute regarding effective service of notice, the ex parte nature of the assessment, and the fact that the assessee has pursued appellate remedies against the assessment order, we are of the considered view that the assessee had reasonable cause for the

alleged non-compliance. We also note that on perusal of 142 notice, it is seen that the name of the assessee is clearly missing in the said notice and the concerned place has been left blank. Therefore, we are of the considered view that the levy of penalty under section 271(1)(b) of the Act is not justified in the instant facts.

9. In view of the above discussion, we direct the Assessing Officer to delete the penalty of ₹10,000/- levied under section 271(1)(b) of the Act.

10. Accordingly, the appeal of the assessee is allowed.

This Order pronounced on

13/01/2026

Sd/-

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Indore; Dated 13.01.2026

Tanmay, Sr. PS

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT(A)
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Indore
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

(Dy./Asstt. Registrar/Sr. P.S./DDO)
ITAT, Indore