

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI ANIKESH BANERJEE (JUDICIAL MEMBER)**

**ITA No. 367/MUM/2026
Assessment Year: 2016-17**

ATC Global Logistics Pvt. Ltd.
901, Peninsula Towers,
Peninsula Corporate Park,
Ganpatrao Kadam Marg,
Lower Parel, Mumbai – 400013

PAN NO. AAACA3307K

Assessee

Vs. Assessing Officer
Aaykar Bhavan, Maharshi Karve
Road, Mumbai – 400020.

Respondent

Assessee by : Ms. Aarti S. Sharma
Revenue by : Mr. Surendra Mohan, (SR. DR)

Date of Hearing : 01/04/2026
Date of pronouncement : 07/04/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal has been preferred by the assessee against the order dated 14.11.2025 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short 'the ld. CIT(A)'], in relation to penalty levied u/s. 271(1)(b) of the Income Tax Act, 1961 (in short 'the Act'), for assessment year 2016-17, raising following grounds:

"I. Issue: Appeal Against the Incorrect Imposition of Penalty Under Section 271(1)(b) of the Income Tax Act, 1961.



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The core of this appeal is the challenge to the imposition of a penalty of ₹10,000/- under Section 271(1)(b) of the Income Tax Act, 1961, levied for alleged failure to comply with a notice issued during the assessment proceedings. The Appellant asserts that the penalty is unwarranted, legally unsound, and contradictory to the established facts of the case and judicial precedents.

II. Factual Background and Consistent Compliance:-

The penalty has been levied despite the Appellant's consistent cooperation and ultimate compliance throughout the assessment process.

- Reasonable Cause for Initial Extension: During the initial phase of the assessment proceedings under Section 142(1), the Appellant sought a brief extension of 15-20 days, citing the ongoing Income Tax return filing period as a reasonable cause. This request itself demonstrates a willingness to comply, not a defiance of the law.*
- Subsequent Engagement and Response: Crucially, the Appellant confirms that the very next notice was served during the requested extension period and, more significantly, each and every subsequent communication and notice was responded to until the matter reached its finality.*
- Assessment Completion U/s 143(3): The assessment was ultimately completed under the scrutiny provision of Section 143(3) of the Act, and not ex-parte under Section 144. The order passed under Section 143(3) made no mention of the imposition of a penalty under Section 271(1)(b). This fact is paramount, as an assessment completed under Section 143(3) inherently indicates that the Assessing Officer was satisfied with the material provided and the assessee's participation in the proceedings.*

III. Legal Precedents Ratios: - The Appellant relies on significant judicial pronouncements that support the contention that penalty under Section 271(1)(b) cannot be sustained under these facts:

The Completion of Assessment U/s 143(3):

The assessment has been completed under section 143(3) basis to our detailed response against various notices, the screenshot of Income Tax Portal is attached for your reference. Furthermore, we have been consistently submitting our response against penalty 271(1)(c) which was communicated to us. Penalty under section 271(1)(b) never formed the part of Order u/s 143(3). We rely upon the following decisions.



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- *In Herman Kumar Soni. v. Dy. CIT (2017) 49 CCH 350 (Indore) (Trib.),* the Tribunal held that no penalty can be levied if the assessments have been completed under Section 143(3). Subsequent compliances in the assessment proceedings were considered 'good compliances, and the levy of penalty U/s 271(1)(b) was deleted.
- Similarly, in *Sardarmal Kothari vs ACIT (ITAT, Chennai)*, the principle was established that where the assessment is made under Section 143(3) and not Section 144, the appellant's subsequent compliance should be considered sufficient, and any earlier default should be ignored.
- **Subsequent Compliance Overrides Initial Default:**
 - *In Manu Rai (Smt.) v. Dy. CIT (2020) 82 ITR 22 (SN)(Indore) (Trib)*, the Tribunal deleted the penalty where the assessee, having failed to appear on the initial date, subsequently complied with the notice issued under Section 142(1) on later dates, and the assessments were completed based on these compliances, without being ex-parte.
- **Quasi-Judicial Proceedings and Co-operation:**
 - The principles established in *Akhil Bhartiya Prathmik Shikshak Sangh Bhawan Trust v. Asst. Director of Income Tax (115 TTJ 419) (Delhi Bench)* and *Swarnaben M. Khanna & Others v. DCIT (132 TTJ 1) (Ahmedabad Bench)* clearly state that where the assessment is completed under Section 143(3) and is not an ex-parte assessment under Section 144, the levy of penalty under Section 271(1)(b) is unwarranted as the Appellant has cooperated with the assessment proceedings.

IV. Chronology of Events and Grounds of Appeal:-

The penalty is inconsistent with the entire chronology and finality of the assessment.

S. No.	Date	Event	Significance
1.	Continuous	The appellant has consistently responded to all notices and orders issued under Sections 142(1) and 143(2).	Demonstrates full co-operation and compliance.



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2.	17th September 2019	First appeal filed, resulting in an order under Section 250,	Indicates the substantive dispute was on merits.
3.	19th December 2023	Decision under Appeal No. 2595/MUM/2023 was delivered.	All grounds of appeal were allowed, indicating the merits were in favour of the Appellant.
4.	28th December 2024	Demand notice under Section 156 served, imposing a penalty of ₹10,000/- under Section 271(1)(b).	Appeal filed

The Appellant specifically contends that the penalty under Section 271(1)(b) is not applicable for the following reasons:

(A) Grounds Based on Compliance and Assessment Nature:

1. The penalty was imposed for alleged non-compliance with a notice under Section 142. Factually, the appellant complied with all notices and orders.
2. The Appellant filed the Return of Income within the due date under Section 139(1) and provided all additional information requested by the Assessing Officer.
3. The assessment was explicitly made under Section 143(3), not Section 144, which confirms that the proceedings were for verification based on compliance, and not for a punitive action due to non-compliance.
4. The final orders under Section 143(3) and Section 250 focused on a disallowance under Section 14A read with Rule 8D(2)(iii). This is a substantive addition on merits and does not constitute non-compliance with a notice under Section 142.

(B) Grounds Based on Finality and Result of Assessment:



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1. *The Order under Section 250 does not mention Section 271(1)(c) or 271(1)(6) The final particulars of the order, therefore, do not indicate any cause for penalty due to inaccuracy or non-compliance.*

2. *The final assessment resulted in zero addition to income and zero tax and interest liability, particularly since the Appellant had paid tax under the Section 1151B (MAT) provisions. The imposition of a penalty is, thus, entirely inconsistent with the outcome on merits, where the case reached finality on merits.*

3. *The demand notice under Section 156 for the relevant Assessment Year showed a "Zero" demand and confirmed a refund due to the Appellant, further demonstrating that the basis for revenue collection was absent, making a deterrent penalty contradictory.*

V. General Principles of Penalty U/s 271(1)(b)

It is an established legal position that Penalty under Section 271(1)(b) is generally applicable for willful failure to comply with notices (such as Sec 142(1), 143(2)). It is not applicable if the failure to comply was due to a reasonable cause (Sec 273B), which was sought in this case. The law is intended for willful non-compliance, not mere technical errors, and its intention is deterrent, not revenue-generating. The subsequent full compliance and the assessment being completed under Section 143(3) completely negate the basis for imposing this penalty.

Prayer

In view of the foregoing facts, legal precedents, and detailed submissions, the Appellant respectfully prays that the Hon'ble Income Tax Appellate Tribunal may be pleased to:

1. *Set aside the order appealed against as the penalty provisions under Section 271(1)(b) are not applicable to the facts and circumstances of the case, and allow the appeal in full.*

2. *Allow the Appellant to add, alter/amend any one or more of the aforesaid grounds and/or to make submissions of additional grounds on or before the hearing of the appeal, as well as to submit fresh documents and information that may be required at the time of hearing of the appeal."*

2. Briefly stated facts of the case are that the assessee filed its return of income on 23.11.2016 declaring a total income of



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₹1,43,67,990/-. The return was selected for scrutiny. During the course of assessment proceedings, the Assessing Officer issued a notice under section 142(1) of the Act on 30.10.2018, fixing compliance on a specified date. According to the Assessing Officer, there was non-compliance with the said notice. Consequently, penalty proceedings under section 271(1)(b) were initiated and, in the absence of response as alleged, a penalty of ₹10,000/- was levied.

3. In first appeal, the learned Commissioner of Income Tax (Appeals) upheld the action of the Assessing Officer, observing that the assessee had failed to demonstrate any reasonable cause for non-compliance with the statutory notice.
4. Aggrieved, the assessee has preferred the present appeal, assailing the levy of penalty under section 271(1)(b) of the Act.
5. Before us, the assessee filed paper book containing pages 1 to 89. The learned counsel for the assessee, drawing our attention to page 74 of the paper book, submitted that in response to the notice issued under section 142(1), the assessee had filed a request for short adjournment on 22.10.2018. It was contended that the said request was neither expressly rejected nor was any further date of hearing communicated by the Assessing Officer. It was further submitted that the assessee had, in due course, furnished replies to all queries raised during the assessment proceedings, as evidenced by



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acknowledgements placed on record. He further emphasized that the assessment was ultimately completed under section 143(3) of the Act on 19.12.2018, which, according to him, clearly demonstrates substantial compliance on the part of the assessee.

6. Upon due consideration of the rival submissions and the material on record, we find merit in the contention advanced on behalf of the assessee. It is an undisputed position that the assessment in the present case has been completed under section 143(3) of the Act and not under section 144. The completion of assessment under section 143(3) necessarily implies that the Assessing Officer was satisfied with the participation and compliance of the assessee in the course of assessment proceedings. The culmination of proceedings under Section 143(3) implies that the Assessing Officer was in possession of the requisite information to determine the total income, thereby rendering the initial non-compliance a mere technicality rather than a substantive defiance of law. Further, the material placed on record indicates that the assessee had sought adjournment and had subsequently furnished requisite details in response to the queries raised. In such circumstances, the alleged non-compliance, if any, cannot be construed as wilful or contumacious so as to warrant imposition of penalty under section 271(1)(b). It is well-settled



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that penalty provisions are to be invoked only in cases of deliberate and conscious disregard of statutory obligations. Where substantial compliance is evident and the assessment itself is framed under section 143(3), the levy of penalty for technical or venial default is not justified.

6.1 In view of the foregoing, we hold that the penalty levied under section 271(1)(b) is unsustainable in law. Accordingly, the order of the learned CIT(A) is set aside and the penalty imposed by the Assessing Officer is directed to be deleted.

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

Order pronounced in the open Court on 07/04/2026.

**Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 07/04/2026
Karishma J. Pawar, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//



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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai