

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "I", MUMBAI  
BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER  
AND  
SHRI RAVISH SOOD, JUDICIAL MEMBER

ITA Nos.6472 TO 6478 /MUM/2014  
(Assessment Years 2005-06 to 2011-12)

M/s.I.A & I.C Pvt. Ltd.,  
16,Gundecha Chambers, N.M.Road,  
Fort, Mumbai 400 023.  
PAN:AAACI 2670K

... Appellant

Vs.

The DCIT, Central Cir.44,  
Room No.656, 6<sup>th</sup> Floor,  
Aaykar Bhavan,M.K.Road,  
Mumbai 400020

.... Respondent

Appellants by : Ms. Nidhi Patel  
Respondent by : Dr. Suman Ratnam Darsi  
Date of hearing : 25/07/2016  
Date of pronouncement : 29/07/2016

**ORDER**

PER G.S.PANNU,A.M:

These are group of seven appeals by the assessee, wherein a common issue has been raised relating to penalty levied under section 271(1)(b) of the Income Tax Act, 1961 (in short "the Act"), on the ground that the assessee did not comply with notices issued by the Assessing Officer under section 142(1) of the Act. Since the facts and circumstances in all the appeals stand on similar footing, ITA No. 6475/Mum/2014, for assessment year 2008-09 is taken as the lead case.

3. ITA No.6475/Mum/2014 for assessment year 2008-09 is directed against the order passed by the CIT(A) -38 Mumbai dated 05/09/2014, which in turn arises out of an order dated 25/09/2013 passed by the Assessing Officer under section 271(1)(b) of the Act.

4. The solitary grievance of the assessee is that the CIT(A) has erred in sustaining the penalty levied by the Assessing Officer under section 271(1)(b) of the Act amounting to Rs.10,000/-. In brief, the relevant facts are that the assessee is a part of group of companies of JIK Industries Limited group. A search action under section 132 of the Act was conducted in the case of M/s.JIK Industries and other associate concerns on 04/02/2011. The appellant company is a subsidiary and group concern of M/s. JIK Industries Ltd. The Assessing Officer noted that the case of the assessee was covered under section 153C of the Act and in the course of ensuring assessment, a notice under section 142(1) dated 04/09/2012 was served on the assessee, requiring the compliance on 10/09/2012. The Assessing Officer has further noticed that there were no compliance to the said notice by the assessee and, therefore, he issued notice under section 271(1)(b) of the Act for levy of penalty. After considering the explanation furnished, the Assessing Officer levied penalty of Rs.10,000/-, which has further been sustained by the CIT(A). Hence, the present appeal before the Tribunal.

5. Before us, Ld. Representative for the assessee pointed out that consequent to the search on the JIK Industries Ltd. group cases, a large number of assessment proceedings were commenced. It was pointed out that there were eight assessees in the group and a total of 55

search related assessments were in progress at the relevant point of time, therefore, there was a slight delay in submission of details and compliance of the notice issued by the Assessing Officer. It was further contended that the assessee had offered a bonafide explanation for the delay/default in compliance of the notice issued under section 142(1) of the Act dated 04/09/2012 and such explanation has been wrongly rejected by the lower authorities. It was also pointed out that penalties under section 271(1)(b) were also levied by the Assessing Officer under identical circumstances in the case of JIK Industries Limited for the above captioned assessment years and such penalties have been deleted by the Tribunal vide its order in ITA Nos. 4759 to 4765/Mum/2014 dated 18/02/2016. A copy of the order is placed on record and it was also pointed out that in the said case also penalty was levied on account of non-compliance to a notice under section 142(1) of the Act of even dated, i.e. 04/09/2012. It was, therefore, contended that following the ratio of the decision of the Tribunal in the case of JIK Industries Ltd. (supra), the impugned penalties be deleted. Apart therefrom, reliance was also placed on the decision of the Tribunal in the case of another group assessee Shri. Rajendra G. Parikh, wherein vide ITA Nos. 6944 to 6950/Mum/2014 dated 20/06/2016, similar penalties have been deleted.

6. The Ld. Departmental Representative has not disputed the factual matrix argued by the Ld. Representative for the assessee, but has reiterated that there was a default committed by the assessee in not complying with the notices issued under section 142(1) of the Act dated 04/09/2012 and, therefore, penalties have been rightly levied.

7. We have carefully considered the rival submissions. In the present case, it is quite clear that the penalty under section 271(1)(b) of the Act has been levied primarily for the reason that assessee did not comply with the notices issued by the Assessing Officer under section 142(1) of the Act on 04/09/2012 posting the case for compliance on 10/09/2012. Before the lower authorities as well as before us, assessee has furnished explanation justifying that there was a reasonable cause for the said failure. Section 273B of the Act prescribes that no penalty under section 271(1)(b) is imposable if the assessee is able to show that there was a reasonable cause for the failure stated in section 271(1)(b) of the Act. Our Co-ordinate Benches in the case of JIK Industries Ltd. (supra) as well as in the case of Shri Rajendra G. Parikh (supra) have considered the similar defaults and found the explanation rendered by the assessee to be reasonable so as to mitigate the rigours of the penalty levied under section 271(1)(b) of the Act. Notably, the explanation offered by the assessee in the instant case is on the same lines as in the cases considered by our Co-ordinate Benches. Since the facts and circumstances and the explanation of the assessee in the present case are similar to those considered by our Co-ordinate Benches, following the precedents, we hereby hold that the penalty sustained by the CIT(A) is untenable. Accordingly, the order of the CIT(A) is set-aside and the Assessing Officer is directed to delete the penalty imposed under section 271(1)(b) of the Act. As a result, appeal of the assessee in ITA No.6475/Mum/2014 is allowed.

8. Since the facts and circumstances in the other appeals are *pari-materia* to those considered by us in ITA No. 6475/Mum/2014 for

assessment year 2008-09, our decision therein shall apply *mutatis mutandis* in other appeals also.

8. In the result, all these appeals are allowed, as above.

Order pronounced in the open court on 29/07/2016

Sd/-  
(RAVISH SOOD)  
JUDICIAL MEMBER  
Mumbai, Dated 29/07/2016  
Vm, Sr. PS

Sd/-  
(G.S. PANNU)  
ACCOCUNTANT MEMBER

**Copy of the Order forwarded to :**

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
  
(Dy./Asstt. Registrar)  
**ITAT, Mumbai**