

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : B : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA Nos.1489 to 1495/Del/2017  
Assessment Years: 2007-08 to 2013-14

Commitment Mortality Vision  
Education Society,  
A-22, Main Gali,  
Kundan Nagar, Laxmi Nagar,  
Delhi.

Vs

ACIT,  
Central Circle-6,  
New Delhi.

PAN: AAAAC1679A

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Ms Nidhi Srivastava, CIT, DR
Date of Hearing	:	26.08.2019
Date of Pronouncement	:	29.08.2019

ORDER

PER BENCH:

The above batch of appeals filed by the assessee are directed against the separate orders dated 09.01.2017 of the CIT(A)-24, New Delhi relating to assessment years 2007-08 to 2013-14, respectively. For the sake of convenience, all these appeals were heard together and are being disposed of by this common order.

2. The assessee in all these appeals has challenged the order of the CIT(A) in sustaining the penalty of Rs.10,000/- each levied by the Assessing Officer u/s 271(1)(b) of the IT Act.

3. None appeared on behalf of the assessee despite service of notice. Therefore, all these appeals are being decided on the basis of material available on record and after hearing the ld. DR.

4. Facts of the case, in brief, are that the assessee is a Trust. A search and seizure operation u/s 132 of the Act was carried out in the case of FIITJEE Group of cases by the Investigation Wing, New Delhi on 17<sup>th</sup> December, 2012 and a survey u/s 133A was carried out by the Investigation Wing on the assessee Trust at the premises situated at 2D, MIG Flats, Gulabi Bagh, Delhi. The Assessing Officer issued notice u/s 142(1) of the Act on 25<sup>th</sup> March, 2014. Subsequently, another notice u/s 142(1) was issued by the Assessing Officer on 12<sup>th</sup> August, 2014 requesting for compliance by 20<sup>th</sup> August, 2014. Another notice u/s 142(1) of the Act along with a questionnaire was issued by the Assessing Officer on 22<sup>nd</sup> August, 2014 requesting for compliance by 1<sup>st</sup> September, 2014. Again, on 12<sup>th</sup> September, 2014, the date fixed at the request of the assessee, the assessee moved an application requesting for time to prepare and submit documents of one month. The assessee was allowed time till 22<sup>nd</sup> September, 2014. Since there was non-compliance to the notices issued, another notice u/s 142(1) of the Act was issued by the Assessing Officer on 7<sup>th</sup> October, 2014 requesting for compliance by 15<sup>th</sup>

October, 2014. Again, another notice u/s 142(1) was issued on 12.11.2014 along with notice to show cause as to why an order imposing penalty u/s 271(1)(b) should not be made. Again there was non-compliance. The Assessing Officer noted that throughout the assessment proceedings the assessee failed to file the details called for in the questionnaire. He, therefore, gave a final opportunity to the assessee, vide notice dated 5<sup>th</sup> February, 2015. However, there was no compliance. The Assessing Officer, thereafter, issued notice u/s 271(1)(b) of the Act, vide notice dated 19<sup>th</sup> February, 2015 and asked the assessee to file its reply by 2<sup>nd</sup> March, 2015. The assessee filed a letter in response to the notice issued by the Assessing Officer. However, the Assessing Officer was not satisfied with the submissions made by the assessee and levied penalty of Rs.10,000/- u/s 271(1)(b) of the IT Act. Similar penalty has been levied by the Assessing Officer for other years.

5. In appeal, the ld.CIT(A) confirmed the penalty so levied by the Assessing Officer by observing as under:-

“4.1.5 A reading of the facts as recounted in the table above, makes it abundantly clear that the appellant has been stonewalling the proceedings of assessment and has consistently evaded to give questions to the detail questionnaire dated 22.08.2014 ,which contained questions asking for specific details, including queries about the so called scholarship funds which have been given from the appellant’s bank accounts to M/s FIIT JEE Ltd., its source and mode of payment, and other details. This particular set of transactions forms the only transactions between appellant and M/s FIITJEE, and was the subject matter of enquiry by the A.O.. Apart from stating that these transactions were done behind its back and that its own bank account has been misused by FIITJEE, the appellant has deliberately avoided to throw any further light on the suspicion transactions. By doing so, it has avoided scrutiny

of the transactions by way of a series of adjournment petitions and a series of letters consistently objecting to assumption of jurisdiction, even after the Assessing Officer has provided a copy of satisfaction note to it. It is not the duty of the Assessing Officer, nor the right of the appellant that the A.O. must fully satisfy the appellant that initiation of proceedings u/s 153C has been validly made, before the appellant deigns to furnish replies to specific questions regarding its accounts. It is abundantly clear that the appellant has been deliberately avoiding to respond to the specific questions and thus hampering investigation by the A.O. Even the letters dated 18.02.2015 and 16.02.2015, which it claims in its written submissions as having been submitted before the Assessing Officer ( purporting to contain replies to the questions raised in the first questionnaire) bears no proof of the submission/despach before the A.O. These so-called response is not available on the assessment record, nor was a hearing conducted on that day. Reliance on such “letters” appears to be afterthought and crafted specially to wriggle out of the penalty levied on it for non-compliance to notice u/s 142(1). Even otherwise, the-appellant has not responded to queries of the A.O. raised vide dated 23.12.2014 and 05.02.2015. Under these circumstances, I am of the firm view that the A.O. has rightly levied penalty u/s 271 (1)(b) for non-furnishing of the information called for u/s 142(1). I therefore confirm the levy of penalty.”

6. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

7. We have heard the ld. DR and perused the material available on record. It is an admitted fact that there was no proper compliance from the side of the assessee to the various statutory notices issued by the Assessing Officer from time to time for which the Assessing Officer levied penalty of Rs.10,000/- u/s 271(1)(b) of the Act for each of the assessment years under appeal. We find the ld.CIT(A) confirmed the penalty so levied by the Assessing Officer, the reasons for which have already been reproduced in the preceding paragraphs. Although nobody appeared on behalf of the assessee, a perusal of the record shows that it is the allegation of the Assessing Officer that there was no proper compliance to the

statutory notices issued by him for which he levied penalty of Rs.10,000/- u/s 271(1)(b) of the Act for each of the assessment years. It is observed from para 4.1.1 (ii) and (iii) that the assessee, before the CIT(A), has submitted as under:-

“(ii) It is wrong and unjustified on part of the A.O. to issue vague letters without proper verification of documents available on record. Vide letter dated 20.11.2014 the appellant has requested the A.O. for providing certified copies of the satisfaction note (for issue of notice u/s 153C) and the seized documents. After receiving the same, the appellant has immediately made compliance vide letter dated 18.02.2014.

(iii) The compliance to notices dated 12.11.2014, 24.11.2014, 12.12.2014, 16.12.2014, 23.12.2014, 02.01.2015 and 19.01.2015 was fully made vide appellant's letters dated 20.12.2014, 04.12.2014, 11.12.2014, 16.12.2014, 01.01.2015, 19.01.2015 and 28.02.2015 for which compliance was made on 16.02.2015. Thus it has made all the compliance.”

8. Further, it is not discernible from the record as to whether the assessment has been framed u/s 143(3) or 144 of the IT Act. The conduct of the assessee shows that it is a fit case for levy of penalty u/s 271(1)(b) of the Act for non-compliance to the statutory notices issued from time to time. However, a perusal of the penalty order shows that notice u/s 142(1) of the Act was issued by the Assessing Officer for all the assessment years on the same date. The various other notices were also issued by the Assessing Officer on the same dates. Considering the totality of the facts of the case and in the interest of justice, we are of the considered opinion that levy of penalty u/s 271(1)(b) only for one assessment year i.e., assessment year 2007-08 only is justified. We, therefore, uphold the order of the CIT(A) confirming the penalty for assessment year 2007-08. As mentioned earlier since all the statutory notices are issued for other years also on the very

same date, therefore, taking a lenient view, we delete the penalty so levied by the Assessing Officer and confirmed by the CIT(A) for the remaining years.

9. In the result, the appeal filed by the assessee for assessment year 2007-08 is dismissed and the appeals filed by the assessee for the remaining assessment years are allowed.

The decision was pronounced in the open court on 29.08.2019.

Sd/-

(SUCHITRA KAMBLE)  
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 29<sup>th</sup> August, 2019

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi