

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

(Conducted Through Virtual Court)

BEFORE S/SHRI PRAMOD M. JAGTAP, VICE PRESIDENT
AND
T.R. SENTHIL KUMAR, JUDICIAL MEMBER

ITA No.7/Ahd/2022
Assessment Year :2011-12

Jagrutiben Dalpatbhai Bhavsar 34, Shri Nagar Society Mehsana Road Visnagar PAN : AKLPB 1800 C	Vs	ITO, Ward-3(2)(5) Patan.
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/(Respondent)
Revenue by :		None
Assessee by :		Shri S.S. Shukla, Sr.DR

सुनवाई की तारीख/**Date of Hearing** : **02/05/2022**
घोषणा की तारीख /**Date of Pronouncement**: **06/05/2022**

आदेश/O R D E R

PER T.R. SENTHIL KUMAR, JUDICIAL MEMBER:

This appeal is filed by the assessee against order dated 29.11.2021 passed by the National Faceless Appeal Centre ("NFAC" for short) relating to the assessment year 2011-12.

2. Solitary ground raised by the assessee is that the Id.CIT(A) has erred in confirming levy of penalty under section 271F of the Income Tax Act, 1961 (hereinafter referred to as "the Act") of Rs.5,000/- for failure to file return of income in response to the notice issued under section 148 of the Act.

3. Brief facts of the case is that the assessee is an individual and as per the Non-Filers Monitoring System information available with the Department, the assessee had made deposit of Rs.12 lakhs in Bank of India. As the assessee has not filed return of income relating to the Asstt.Year 2011-12, the assessment was reopened by issuance of notice was issued under section 148 of the Act on 31.3.2018 after recording reasons and obtaining prior approval from the Pr.CIT, Gandhinagar. The assessee had not filed return of income in response to 148-notice. Hence, the assessment was completed under section 144 read with section 147 of the Act on 27.11.2018 determining total income at Rs.12,39,100/- and also initiated penalty proceedings under section 271F of the Act. The *exparte* assessment order was duly served on the assessee. Another notice under section 271F of the Act was issued on 18.3.2019 seeking compliance on or before 10.4.2019. However, the assessee failed to furnish reply for the aforesaid notice. If a person required to furnish a return of income, as per section 139(1), and if he fails to furnish the return before the end of relevant assessment year, the AO may direct that such person shall pay, by way of penalty u/s.271F, a sum of Rs.5000/-. As the assessee has never filed a return of income, the AO levied penalty of Rs.5,000/- by invoking section 271F of the Act. Aggrieved against this penalty order, the assessee filed appeal before the NFAC.

4. Before the NFAC there is a delay in filing appeal (how many days' delay has not been specified in this order) and requested for condonation of delay in filing appeal. The 1d.NFAC condoned the delay and posted for hearing of the appeal on 17.8.2021. As there was no response to the hearing notice one more hearing was fixed on 28.10.2021. Again in response to the second notice, none appeared

on behalf of the assessee and no details has been furnished, therefore, the appeal was dismissed by the NFAC.

5. We have gone through the impugned order. Though the ld.CIT(A) has given two opportunities to the assessee, as non-appeared on behalf of the assessee, the appeal of the assessee was dismissed. Further, perusal of records clearly shows that no explanation or reason adduced before any of the lower authorities. In the absence of any records and evidences, we are not in a position to adjudicate this case. Further, the penalty orders clearly states that the assessee did not file the return of income in response to the notice issued under section 148 of the Act till the date of finalization of the order. Therefore, we reject the ground of appeal raised by the assessee.

6. In the result, appeal of the assessee is dismissed.

Order pronounced in the Court on 6th May, 2022 at Ahmedabad.

**Sd/-
(PRAMOD M. JAGTAP)
VICE-PRESIDENT**

**Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

Ahmedabad, dated 06/05/2022