

**APPELLATE TRIBUNAL INLAND REVENUE LAHORE BENCH,  
LAHORE**

ITA No. 1207/LB/12  
(Tax Year 2010)

ITA No. 1208/LB/12  
(Tax Year 2010)

CIR, Zone-XII, RTO-II, Lahore

.. Appellant

Versus

Mr. Ali Imam Hussain, 500-W, DHA, Lahore.

..Respondent

Appellant by: Mrs. Misbah Nawaz, DR

Respondent by: None.

Date of hearing: 07.07.2014

Date of order: 07-07-2014

**ORDER**

**CH. ANWAAR UL HAQ (Judicial Member):** The titled appeals pertaining to tax year 2010, have been preferred at the instance of Revenue, calling in question the impugned consolidated order dated 21.05.2012, passed by the learned CIR (Appeals), Lahore. The appellant / department contested the order of the learned CIR(A) on the following common grounds of appeal: -

- i. That the learned CIR (A) was not justified in holding that the taxpayer has not committed the default of late filing of return of income / wealth statement whereas actually the taxpayer has committed the default of late filing of return of income / wealth statement.
- ii. That the learned CIR (A) was not justified in deleting the penalty u/s 182 (1) / 114 / 116 and undue favour has been given to the taxpayer.

2. Briefly stated, the relevant facts are that taxpayer filed his income tax return / wealth statement for the tax year 2010 manually on 15.07.2011 whereas he was under legal obligation to e-file the same. Accordingly, show cause notices u/s 182 (2) were issued for levy of two separate penalties at Rs.119,700/- each for default of non e-filing of the return of income / wealth statement within the stipulated time. Allegedly, no response was made by the taxpayer to the show cause notice issued by the assessing officer. Consequently, two separate penalty orders u/s 182 (1) were passed whereby penalty of Rs.119,700/- each were imposed by the assessing officer. The taxpayer being aggrieved preferred appeal before the learned CIR (A) and assailed the levy of penalty


on the ground that the taxpayer filed return of income / wealth statement manually on 29.10.2010 and that later on, he e-filed the same in response to notices issued within the given time. Thus there was no default on the part of the taxpayer. The learned CIR(A) being convinced with the submissions of the learned AR deleted both the penalties after observing as under: -

"I have given due consideration to the arguments put forth by the learned AR and the departmental Representative. On examination of record it is found that the contention of the appellant carry weight. It however, appears that the appellant filed Income Tax return and wealth statement for the year under consideration manually. It appears that action has been taken by the assessing officer in hurry and without giving due consideration to the fact of the case. Perusal of assessment record and other allied documents filed at the time of appeal proceedings by the Appellant further reveal that in response to notices issued by the assessing officer, the appellant complied with the same within due course of time, hence, no default is established on the part of the appellant. The penalties imposed by the assessing officer are, therefore, unwarranted and are not sustainable in the eyes of law, hence deleted."

3. None present on behalf of taxpayer despite proper service of hearing notice. Hence, the appeal is decided *ex parte* on merits after hearing the learned DR.

4. I have looked into the matter and after due consideration, I find that no exception can be taken to the treatment as accorded by the learned CIR (A) which is found to be fair and reasonable in the ambient circumstances of the case. Admittedly, the taxpayer filed the income tax return / wealth statement manually within the prescribed time limitation. In response to notices issued, the taxpayer later on e-filed the same within the given time period, hence, there is no fault on part of the taxpayer established by the department to levy penalties under consideration. under such circumstances, we find no reason to disturb the above finding of the learned CIR (A) which is hereby maintained.

5. Appeals of the department being filed without any merit or substance are hereby rejected.

  
(CH. ANWAAR UL HAQ)  
Judicial Member  
Empowered u/s 130 (8) (a) of  
the Income Tax Ordinance,  
2001 to sit singly