

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.833/Chny/2018

निर्धारण वर्ष / Assessment Year : 2013-14

Shri Bharat Mirpuri,
No.23, Hunters Road, Vepery,
Chennai - 600 007.

v. The Income Tax Officer,
Non-Corporate Circle – 9(1),
Chennai - 600 034.

PAN : AEOPB 0159 H
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Anannddevkumar, CA

प्रत्यर्थी की ओर से/Respondent by : Shri R. Clement Ramesh Kumar, JCIT

सुनवाई की तारीख/Date of Hearing : 14.08.2018

घोषणा की तारीख/Date of Pronouncement : 12.09.2018

आदेश /ORDER

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -10, Chennai, dated 21.12.2017, for the assessment year 2013-14, confirming the penalty levied by the Assessing Officer under Section 271B of the Income-tax Act, 1961 (in short 'the Act').

2. We heard Shri Ananddevkumar, the Ld. representative for the assessee and Shri R. Clement Ramesh Kumar, the Ld. Departmental Representative. Admittedly, the audit report was filed belatedly before the Assessing Officer. Even though it is mandatory for the assessee to file the audit report, the time limit for filing the same is discretionary. The object of filing the audit report is to assist the Assessing Officer in completing the assessment for determination of taxable income. Since there was no impediment in determining the taxable income, and the audit report was very much available before the Assessing Officer before completion of assessment, this Tribunal is of the considered opinion that it is not a fit case for levy of penalty under Section 271B of the Act.

3. The assessee also claimed before the CIT(Appeals) that he was sick and there was some delay in getting the audit report also. This claim of the assessee was rejected by the CIT(Appeals) on the ground that the assessee was able to manage the business. Managing the business is one thing and getting audit report is another thing. For auditing the accounts, the assessee has to instruct his auditor. Therefore, that cannot be a reason for levying penalty. In view of the above, this Tribunal is unable to uphold the

order of the CIT(Appeals). Accordingly, orders of both the authorities below are set aside and the penalty levied by the Assessing Officer under Section 271B of the Act is deleted.

4. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the court on 12th September, 2018 at Chennai.

sd/-
(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 12th September, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-10, Chennai-34
4. Principal CIT-7, Chennai.
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.