

**IN THE INCOME TAX APPELLATE TRIBUNAL  
CHANDIGARH BENCHES, 'SMC', CHANDIGARH**

**BEFORE SHRI N.K. SAINI, VICE PRESIDENT**

**ITA No.1330/Chd/2018**  
Assessment Year: 2014-15

M/s Shri Shivjot Developers &  
Builders Ltd.  
Opp. Court Complex,  
Shivjot Enclave, Kharar  
Punjab

Vs. The ITO, W-6(5)  
Mohali, Punjab

PAN No. AAJCS4811P

(Appellant)

(Respondent)

Assessee By	:	Sh. B.M. Monga, Advocate Sh. Rohit Kaura, Advocate
Revenue By	:	Sh. Manjit Singh, Sr. DR
Date of hearing	:	21/02/2019
Date of Pronouncement	:	21/02/2019

**ORDER**

This is an appeal by the Assessee against the order dt. 06/08/2018 of Ld. CIT(A)-2, Chandigarh.

2. In the present appeal Assessee has raised the following grounds:

1. *That the order of Ld. CIT(A) is against the law and facts of the case.*
2. *That the Learned CIT(A), is not justified in upholding the order of Ld. AO without appreciating the fact that assessee had complied the provisions of Section 44AB and had duly e-filed/furnished the Audit Report in Form No. 3CA vide e-filing Acknowledgment No. 432930841301114 dated 30.11.2014.*
3. *That the learned CIT(A) as well as the AO has erred while imposing the penalty u/s 271B of the Act without verifying that the appellant-assessee has duly complied with the provisions of Section 44AB as Audit was done on 25.08.2014 and duly submitting/e-filing/ furnishing the Audit Report before due date.*
4. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard and disposed off.*

3. The only grievance of the assessee in this appeal relates to the sustenance of penalty levied by the Assessing Officer under section 271B of the Income Tax Act, 1961 (hereinafter referred to as 'Act').

4. Facts of the case in brief are that the assessee is a Builder and Developer of property having a turnover of Rs. 10,99,68,405/- for the year under consideration.

5. The Assessing Officer during the course of assessment proceedings noticed that the assessee filed the return of income alongwith audit report on

05/02/2015 while the specified date for filing the audit report was 30/11/2014. The Assessing Officer levied the penalty of Rs. 1,50,000/- under section 271B of the Act.

6. Being aggrieved the assessee carried the matter to the Ld. CIT(A) who sustained the penalty levied by the Assessing Officer.

7. Now the assessee is in appeal.

8. Ld. Counsel for the assessee submitted that there was no fault of the assessee since the Tax Audit Report was e-filed on 30/11/2014, he furnished the computer generated acknowledgment receipt which is placed at page no. 1 of the assessee's paper book. It was further submitted that neither the Assessing Officer nor the Ld. CIT(A) appreciated the facts in right perspective.

9. In his rival submission the Ld. DR strongly supported the order of the authorities below.

10. After considering the submissions of both the parties and the material available on the record, I am of the view that this fact requires verification as to whether the assessee e-filed Tax Audit Report within the specified time limit or not. Therefore, this issue is set aside to the file of the Assessing Officer to be adjudicated afresh in accordance with law by providing due and reasonable opportunity of being heard to the assessee.

11. In the result, appeal of the Assessee is allowed for statistical purposes.

(Order pronounced in the open Court on 21/02/2019.)

**Sd/-**  
**(N.K. SAINI)**  
**VICE PRESIDENT**

Place: Chandigarh

Dated : 21/02/2019

AG

Copy to: The Appellant, The Respondent, The CIT, The CIT(A), The DR