

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

[Before Shri Pramod Kumar, Vice President]

ITA No. 2194/Ahd/2017
Assessment Year : 2013-14

Zanu Dudh Utpadak Sahkari Mandli

Village – Zanu, Taluko – Daskroi,

Dist : Ahmedabad - 382430

[PAN : AAAAZ 0420 C]

.....**Appellant**

Vs.

Income Tax Officer

Ward 3(2)(5), Ahmedabad

.....**Respondent**

Appearances by:

PF Jain, for the applicant

James Kurian, for the respondent

Date of concluding the hearing : 18.02.2019

Date of pronouncing the order : 08.05.2019

O R D E R

1. By way of this appeal, the assessee appellant has challenged correctness of learned CIT(A)'s order dated 18.09.2017 upholding penalty of Rs. 83,826/- imposed on the assessee under section 271B, for not getting the tax audit done, for the assessment year 2013-14.

2. When the appeal was called out for hearing, learned counsel for the assessee pointed out that there is no variation in the returned income and the assessed income and the bonafides of assessee's explanation have not been disputed. On these facts, according to learned counsel, the issue in appeal is squarely covered, in favour of the assessee, by a Division Bench decision in the case of Apoorva Automobiles Pvt. Ltd. vs. ITO (ITA No. 2868/Ahd/2002; order dated 25.05.2007). He submits that the explanation of the assessee, for not getting the tax audit done separately, may not be perfectly correct but its bonafides are not even questioned.

3. Learned Departmental Representative relied upon the orders of the authorities below.

4. The plea is indeed well taken, and the issue stands covered by the aforesaid Division Bench decision. Respectfully following the Division Bench decision in the case of Apoorva Automobiles (Supra), which is binding judicial precedent for me, I uphold the grievance of the assessee and delete the impugned penalty of Rs. 83,826/-. The assessee sets the relief accordingly.

5. In the result, appeal is allowed. Pronounced in the open court today on the 8th May, 2019.

Sd/-

Pramod Kumar
(Vice President)

Ahmedabad, the 8th day of May, 2019

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Copies to:	(1)	The appellant	(2)	The respondent
	(3)	Commissioner	(4)	CIT(A)
	(5)	Departmental Representative	(6)	Guard File

By order

TRUE COPY

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad