

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL 'C' BENCH: CHENNAI

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस. जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

**I.T.A. No.3118/Chny/2018
Assessment Year: 2014 - 2015**

M/s. Jamdev Traders LLP,
No.70, Basement,
R.E. Apartments, Arya Gowda Road,
West Mambalam, Chennai – 600 033.

[PAN: AAIFJ 6543R]

Vs. The Income Tax Officer,
Non-Corporate Ward – 13(3),
Income Tax Department,
No.121, M.G. Road,
Nungambakkam,
Chennai – 600 034.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: None
: Mrs. R. Anita, JCIT

सुनवाई की तारीख/Date of Hearing

: 04.11.2020

घोषणा की तारीख /Date of Pronouncement

: 18.11.2020

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the Assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-12, Chennai in I.T.A. No.115/CIT(A)-12/18-19, dated 31.10.2018 relevant to the assessment year 2014 – 2015.

2. The brief facts of the case is that the Assessee firm filed its return of income for the assessment year 2014 – 2015 on 3rd March, 2015 declaring an income as 'Nil'. In the penalty order, the Assessing Officer has noted that the gross receipts during the year is Rs.25,04,45,878/-. As per the provisions of Section 44AB, every person who is carrying on a business shall, if his total sales turnover or gross receipts exceeds Rs.1.00 crore should get his accounts of the previous year audited by an Accountant before the specified date and furnish the same by that date, the report of such audit in the prescribed form duly signed and verified by such an Accountant and setting forth such particulars as may be prescribed. The specified date in relation to the assessment year means 30th September of the assessment year. The Assessee is required to get his accounts audited and file the tax audit report electronically before 30th September, 2014. The Assessee had filed the return of income as well as the tax audited report belatedly on 30th March, 2015. As no tax audit report was filed belatedly or before the due date, a notice u/s.271B dated 22.12.2016 was issued asking the Assessee to show-cause as to why the penalty u/s.271B should not

be levied for the failure to submit the tax audit report in the prescribed form as required u/s.44AB before the due date.

The Assessee has explained that due to technical difficulties, the Assessee could not upload the tax audit report and submitted that the penalty may be dropped. However, the Assessing Officer not satisfied with the explanation given by the Assessee has levied the penalty u/s.271B of the Income Tax Act, 1961.

3. The same is confirmed by the learned Commissioner of Income Tax (Appeals).

4. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below.

5. We find that the audit report was not uploaded due to technical difficulties of uploading. Therefore, the Assessing Officer is not justified, rejected the explanations of the Assessee and levied penalty u/s.271B of the Income Tax Act, 1961. However, by considering the detailed explanation given by the Assessee which is extracted in the Penalty Order, Para-3, we are of the opinion that there is a reasonable cause for the Assessee for not uploading the

audit report and therefore under the above facts and circumstances of the case, no penalty can be levied. Therefore, the order passed by the Assessing Officer and confirmed by the learned Commissioner of Income Tax (Appeals) is cancelled and the appeal filed by the Assessee is allowed.

6. In the result, the appeal of the Assessee in I.T.A.No.3118/Chny/2018 is allowed.

Order pronounced on 18th November, 2020 in Chennai.

Sd/-

(श्री एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 18th November, 2020

IA, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF