

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ **ITA No.590/Chny/2021**
(निर्धारण वर्ष / **Assessment Year: 2015-16**)

M/s. Balaji Produce Company 93, Rudra Prasada, Venkatachala Mudali Street, Mylapore, Chennai – 600 004.	बनाम/ Vs.	DCIT, Central Circle-1(4), Chennai.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. AAafb-0658-F		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri S. Sridhar (Advocate) – Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri ARV. Sreenivasan (Addl. CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	19-05-2022
घोषणा की तारीख / Date of Pronouncement	:	08-06-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2015-16 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short CIT(A)] dated 30.11.2021 in the matter of penalty levied by Ld. Assessing Officer [AO] u/s. 271B vide order dated 29.06.2018. The sole grievance of the assessee is confirmation of penalty u/s 271B.

2. The Ld. AR submitted that delay in audit occurred due to various legal problems being faced by the assessee. The Ld. AR also submitted that no such default was made by the assessee in any of the earlier years or subsequent years. The Ld. Sr. DR, on the other hand, justified the penalty which is stated to be levied as per statutory mandate.

3. Upon perusal of orders of lower authorities, we find that the assessee being resident firm has been assessed u/s 143(3) on 29.12.2017 wherein the returned income of Rs.106.35 Lacs has substantially been accepted except for addition of Rs.1.32 Lacs on account of difference in Form 26AS receipts.

4. However the return was filed belatedly on 09.03.2017. It transpired that the Audit Report was finalized only on 03.02.2017. Accordingly, penalty proceedings were initiated u/s 271B for failure of the assessee to get its accounts audited and furnish a report as required u/s 44AB before the due date of furnishing of return of income. The assessee defended the penalty on the ground that it was facing multiple legal issues at various levels and was under great stress and mental torture. There was continuous turnover of the staff and discontinuity in the routine work which led to delay in finalization of account and audit. However, not convinced, Ld. AO levied penalty of Rs.1.50 Lacs u/s 271B vide penalty order dated 29.06.2018. The same, upon confirmation by Ld. CIT(A), is in further challenge before us.

5. Upon careful consideration of material fact, the undisputed fact that could be gathered is that the assessee firm was facing multiple legal issues at various levels and was under great stress and mental torture. There was continuous turnover of the staff and discontinuity in the routine work which would certainly disrupt the work including finalization

of account and audit. This situation is taken care of by the provisions of Sec.273B which provide that the penalty is not leviable if there was reasonable cause of the failure. We also find that the assessee has not made such a default in other years. Keeping in view the conduct of the assessee, we accept the plea of Ld. AR that this case falls within the provisions of Sec.273B. Therefore, by deleting the impugned penalty, we allow the appeal of the assessee.

6. The appeal stands allowed in terms of our above order.

Order pronounced on 08th June, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 08-06-2022
EDN

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded 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