

IN THE INCOME TAX APPELLATE TRIBUNAL "B"
BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.1445/Kol/2019
Assessment Year: 2013-14

Sri Prayag Yadav.....Appellant
Gopalpur, G.T. Road (West),
Near: Anand Flower Mill,
P.O-Asansol-713304.
[PAN: AAJPY3616P]

vs.

ACIT, Circle-2, Asansol.....Respondent

Appearances by:

None appeared on behalf of the appellant.

Shri Biswanath Das, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : June 28, 2022

Date of pronouncing the order : June 28, 2022

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 04.02.2019 of the Commissioner of Income Tax(Appeals), Asansol [hereinafter referred to as 'CIT(A)']. The assessee in this appeal has agitated against the levy of penalty of Rs.1,31,524/- u/s 271B of the Income Tax Act (hereinafter referred to as the 'Act') for not getting his accounts audited before the specified date as laid down u/s 44AB.

2. No one has put in appearance on behalf of the assessee despite service of notice. A perusal of case file records show that notices have been served to the assessee several times through Registered post and through email to the AR of the assessee but no one has ever put in appearance on behalf of the assessee. It seems that the assessee is no more interested in prosecution of the appeal, therefore, we proceed to decide the appeal on merits after hearing the ld. DR and after going through the records.

3. On being asked to explain as to why not the penalty be levied for not getting the accounts audited before specified date, the assessee submitted before the lower authorities that due to severe heart problem, the assessee most of the time was confined

to bed and further that this was the first time that the assessee came under the purview of audit u/s 44AB of the Act and that the assessee was not aware about the provisions, therefore, a delay has taken place in getting audit of the accounts done. However, the accounts were got audited before the filing of the return.

4. Considering the above plea of the assessee on record, since it was the first time that the assessee came under the purview of the provisions of section 44AB for getting his accounts audited and the assessee was not conversant with the above technical provisions and further considering the fact that the assessee had duly got audited its accounts before filing of the return, we are of view that there was a reasonable cause for the assessee for delay in getting accounts audited. In view of this, we do not find it a fit case to levy penalty u/s 271B of the Act and the same is accordingly ordered to be deleted.

5. In the result, the appeal of the assessee stands allowed.

Kolkata, the 28th June, 2022.

Sd/-
[Girish Agrawal]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 28.06.2022.

RS

Copy of the order forwarded to:

1. Sri Prayag Yadav
2. ACIT, Circle-2, Asansol
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches