

| आयकर अपीलिय अधिकरण न्यायपीठ, गुवाहाटी।
IN THE INCOME TAX APPELLATE TRIBUNAL
"GUWAHATI" BENCH, GUWAHATI

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 197/GTY/2019
Assessment Year: 2016-17

Pranab Gohain Jiban Phukan Nagar Dibrugarh - 786003 (Assam) [PAN : ACQPG7405H]	Vs	ITO, WARD-1(2), DIBRUGARH
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	None
Revenue by :	Shri N.T. Sherpa, JCIT

सुनवाई की तारीख/Date of Hearing : 09/01/2023
घोषणा की तारीख /Date of Pronouncement: 20/02/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The present appeal is directed at the instance of the assessee against the order of the learned Commissioner of Income Tax (Appeals), Dibrugarh, (hereinafter the "ld. CIT(A)") dt. 26/02/2019, passed u/s 250 of the Income Tax Act, 1961 ("the Act"), for Assessment Year 2016-17.

2. None appeared on behalf of the assessee. Under these circumstances, we dispose off the case *ex-parte* on merits *qua* the assessee after hearing the ld. Departmental Representative.

3. Heard the ld. D/R. The only issues raised in the instant appeal is against the levy of penalty u/s 271B of the Act. As per the provisions of Section 271B of the Act, if any person fails to get his accounts audited in respect of any previous year or years relevant to an assessment year, or fails to furnish a report of such audit as required u/s 44AB of the Act, the Assessing Officer may direct that such person shall pay by way of penalty a sum equal to ½ % of the total sales, turnover or gross receipts, as the case may be or a sum of Rs.1,50,000/- whichever is less.

4. On perusal of the record, we notice that the assessee e-filed its return of income for the Assessment Year 2016-17 on 07/04/2017 declaring total income at Rs.4,39,470/- and the audit report u/s 44AB of the Act was submitted electronically on 31/03/2017. It is not in dispute that the assessee was required to get its accounts audited u/s 44AB of the Act and the report should have been furnished on or before 17/10/2016. Since the assessee submitted the report on 31/03/2017, the provisions of Section 271B of the Act were invoked. The only reason given by the assessee for such delay before the Id. Assessing Officer was the lack of information about the prevalent norms including website of the Department. We, however, do not find any merit in such reasons.

5. Further the assessee also raised ground stating that the penalty order has been prepared prior to the date of assessment. We, however do not find merit in this ground also since during the course of penalty proceedings, notices/letters have been issued to the assessee on various dates falling during the financial year 2017-18. Though the date of order is mentioned as 28/03/2017, but apparently there seems to be a typographical error and the date of order is presumed to be 28/03/2018. Even in the appeal before the Id. CIT(A) against the penalty proceedings, order u/s 271B of the Act is filed on 30/04/2018 and no such ground has been raised by the assessee before the Id. CIT(A). Therefore, this ground of the assessee that penalty order is bad in law as the same has been prepared prior to the date of assessment, is dismissed.

We, therefore, under the given facts and circumstances are of the considered view that since the assessee failed to file the audit report within the prescribed time limit provided u/s 44AB of the Act without mentioning any reasonable cause for the said failure as contemplated u/s 273B of the

3

Act, the Id. Assessing Officer has rightly invoked the provisions of Section 271B of the Act and levied penalty of Rs. 1,17,886/- on the assessee. Therefore, no interference is called for in the findings of the Id. CIT(A) and all the grounds raised by the assessee are dismissed and the penalty is confirmed.

6. In the result, appeal of the assessee is dismissed.

Order pronounced in the Court on 20th February, 2023 at Guwahati.

Sd/-

**(RAJPAL YADAV)
VICE-PRESIDENT**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 20/02/2023

SC SpP

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, गुवाहाटी / DR, ITAT, Guwahati,
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Guwahati