

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

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनोमोहन दास न्यायिक सदस्य का समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM,
AND HON'BLE SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ **ITA No.324/Chny/2023**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Mr. Annamalaikottai Nandhakumar 2, Opp. KMCG Hospital Gandhi Nagar Colony, Erode-638 009.	Palanisamy	बनाम / Vs.	Income Tax Officer CHE-C-65(1) Erode.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. ABPPN-6488-B			
(पीलार्थी/ Appellant)		:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri Girish Kumar (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri D.Hema Bhupal (JCIT) -Ld.DR
सुनवाई की तारीख/ Date of Hearing	:	25-04-2023
घोषणा की तारीख / Date of Pronouncement	:	25-04-2023

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aggrieved by confirmation of penalty u/s 271B for Rs.1.50 Lacs for Assessment Year (AY) 2017-18, the assessee is in further appeal before us. The impugned order has been passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 24-01-2023 in the matter of impugned penalty levied by Ld. AO vide order dated 11.01.2022. Having heard rival submissions and after perusal of case records, the appeal is disposed-off as under.

2. The assessee was assessed u/s 143(3) on 04.12.2019 after disallowance of Rs.3 Lacs u/s 37(1). The assessee is dealer of Indian Oil Corporation and practicing as a Doctor. The assessee admitted income of Rs.23.63 Lacs. Since there was delay in furnishing Audit Report u/s 44AB, Ld. AO proposed impugned penalty u/s 271B. The due date for filing the report was 15.11.2017 whereas the report was filed with minor delay of 13 days on 28.11.2017. The assessee attributed the delay to the fact that this being demonetization year, the auditor could not complete the audit in time. The bankers delayed the issuance of statement with details of demonetized currency. Nevertheless, the assessee cooperated with the department in completion of assessment and also paid the taxes levied on completion of assessment. However, rejecting the same, Ld. AO levied impugned penalty.

3. During appellate proceedings, the assessee submitted that in terms of Sec.273B, penalty would not be leviable if the assessee proves that there was reasonable cause for such failure. However, not convinced, Ld. CIT(A) confirmed the impugned penalty against which the assessee is in further appeal before us.

4. Upon perusal of factual matrix as stated above, it could be seen that the assessee has cooperated during assessment proceedings and no other infraction has been shown against the assessee. There is minor delay of 13 days only. It is also discernible that the assessee has paid the due taxes after completion of assessment. The explanation that this being demonetization year, the bankers delayed in issuing statements is also a reasonable explanation. Therefore, it is not a fit case for imposition of penalty. We order so.

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

Order pronounced on 25th April, 2023.

Sd/-
(MANOMOHAN DAS)
न्यायिक सदस्य / JUDICIAL MEMBER

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

चेन्नई / Chennai; दिनांक / Dated : 25-04-2023
DS

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

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त/CIT 4. विभागीय प्रतिनिधि/DR 5. गार्ड फाईल/GF