

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.313/Chny/2023**
(निर्धारण वर्ष / Assessment Year: 2016-17)

Mrs. Naga Thulasiram Jayanthi 18/5, Propx: Jayanthi Silvers, Rajaji Road, Salem-636 007.	बनाम / Vs.	ACIT Circle-1(1) Salem.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. ACAPJ-0476-F		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri Ashok Durai (C.A)-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 / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aggrieved by confirmation of penalty u/s 271B for Rs.1.50 Lacs for Assessment Year (AY) 2016-17, 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)] on 07-02-2023 in the matter of impugned penalty levied by Ld. AO vide order dated 29.06.2019. 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 28.12.2018 wherein returned income was accepted. However, the assessee failed to furnish Tax Audit Report in terms of Sec.44AB along with return of income, Ld. AO proposed impugned penalty. The Audit Report was furnished on 26.12.2016. The assessee is stated to be sole proprietor of M/s Jayanthi Silvers. In defense, it was submitted that the audit was completed on 19.09.2016 and the return of income was filed on 26.12.2016. The same was due to the adverse medical conditions being faced by the assessee. In support, certificate from doctor was also furnished. However, Ld AO held that the assessee was required to furnish the report electronically on or before 30.09.2016 and therefore, impugned penalty was levied. The Ld. CIT(A) confirmed the same on the ground that there was no reasonable cause. Aggrieved, the assessee is in further appeal before us.

3. Upon perusal of factual matrix as stated above, it could be seen that the assessee has obtained the Tax Audit Report well before due date of return of income. However, the delay in furnishing the same happened due to adverse medical conditions being faced by the assessee. There is only minor delay and ultimately the returned income has been accepted by the assessee. Therefore, it is not a fit case for imposition of penalty. We order so.

4. 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)
लेखा 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