

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH, 'A' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA. No.267/PUN/2023

निर्धारण वर्ष / Assessment Year : 2017-18

Bashir Usman Karbhari, 241-2, Shaniwar Peth, Main Road, Patan Colony, Karad – 415 110 PAN : ABDPK3241R	Vs.	The Dy.CIT, Central Circle-2(1), Pune
Appellant		Respondent

Assessee by Shri M.K. Kulkarni &
Smt. JR Chandekar
Revenue by Shri Ramnath P. Murkunde
Date of hearing 01-05-2023
Date of pronouncement 01-05-2023

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order passed by the ld. CIT(A), Pune 12 on 13-01-2023 in relation to the assessment year 2017-18.

2. The only issue raised in this appeal is against the confirmation of penalty of Rs.1,50,000/- imposed by the Assessing Officer (AO) u/s.271B of the Income-tax Act, 1961 (hereinafter also called 'the Act').

3. Briefly stated, the facts of the case are that the assessee filed his e-return on 28-03-2018 declaring total income at Rs.13,49,120/-. Since the accounts were required to be audited and the assessee failed to submit the audit report before the due date u/s.139(1), the AO imposed penalty u/s.271B amounting to Rs.1,50,000/-. Such penalty came to be affirmed in the first appeal, against which the assessee has approached the Tribunal.

4. We have heard the rival submissions and gone through the relevant material on record. It is evident from the penalty order passed by the AO u/s.271B that the assessee failed to get the accounts audited, as he was suffering from Swine flu during that period and doctor had advised to take rest. This assertion has been recorded in the penalty order, which has not been controverted by the AO. Though, admittedly, there is a delay in getting the accounts audited in terms of section 44AB and filing the audit report within the time allowed u/s 139(1) of the Act, which otherwise requires imposition of penalty u/s.271B, but the prescription of section 273B applies as per which if there exists a reasonable and sufficient cause for non-compliance, then the

penalty should not be imposed. We are satisfied with the cause pleaded by the assessee before the authorities below, being, the medical condition, for failure to file the audit report in time. We, therefore, order to delete the penalty.

5. In the result, the appeal is allowed.

Order pronounced in the Open Court on 01st May, 2023.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 01st May, 2023
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The Pr. CIT(Central), Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	01-05-2023	Sr.PS
2.	Draft placed before author	01-05-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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