

IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH

(At e- Court, Pune)

BEFORE SHRI R.S.SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.36 to 43/Nag/2019

निर्धारण वर्ष / Assessment Years : 2008-09 to 2015-16

Dr. Babasaheb Ambedkar Urban Cooperative Bank Ltd., Flat No.352, Laxminagar Chowk, Nagpur – 440 022, Maharashtra PAN : AAAAD0209K	Vs.	DIT (Intelligence & Criminal Investigation), Nagpur
Appellant		Respondent

Assessee by : Shri Abhishek Kumar
Revenue by : Shri Rishi Kumar Bisen

सुनवाई की तारीख / Date of Hearing : 22.08.2023

घोषणा की तारीख / Date of Pronouncement : 24.08.2023

आदेश / ORDER

PER Bench:

These eight appeals by the assessee are directed against the consolidated order passed by the CIT(A)-2, Nagpur on 12-10-2018 upholding the penalty imposed by the Assessing Officer (AO) u/s.271FA of the Income-tax Act, 1961 (hereinafter also called 'the Act') for the assessment years 2008-09 to 2015-16. Since common issue is raised in these appeals, we are proceeding to dispose them off by this consolidated order for the sake of convenience.

2. Briefly stated, the facts of the case are that the assessee is a Cooperative bank. As per the provisions of section 285BA of the Act, an obligation has been cast upon the assessee to furnish the Annual Information Return (AIR) in the requisite Form in respect of the specified transactions. The assessee did not submit this Form for any of the years under consideration. An inspection was carried out, in which it was observed that the assessee was not filing the AIRs. On being called upon to explain the reasons for non-compliance, the assessee submitted that it was not aware of the obligation to file the AIR and it was only pursuant to the inspection that this obligation came to its notice and was immediately complied with for all the years under consideration. In the opinion of the AO, the assessee ought to have the knowledge about its obligation to file the AIR. Rejecting the assessee's contention, he imposed penalty u/s.271FA for all the years under consideration as follows :

ITA No.	Penalty Amount
36/Nag/2019	Rs.2,94,600/-
37/Nag/2019	Rs.2,58,100/-
38/Nag/2019	Rs.2,21,600/-
39/Nag/2019	Rs.1,85,100/-
40Nag/2019	Rs.1,48,600/-
41/Nag/2019	Rs.1,12,200/-
42/Nag/2019	Rs.1,73,800/-
43/Nag/2019	Rs.75,500/-

3. The Id. CIT(A) echoed the penalty orders passed by the AO. Aggrieved thereby, the assessee has approached the Tribunal.

4. Having heard the rival submissions and gone through the relevant material on record, it is seen that section 285BA was inserted by the Finance Act, 2003 w.e.f. 01-04-2004. Admittedly, the assessee was under obligation to file the AIR in respect of the specified transactions. The assessee did not file AIRs *ab initio*. It was only pursuant to the inspection that it came to know of its obligation to file the AIRs, which obligation was discharged for all the years under consideration immediately on coming to know of it. Section 271FA imposes penalty in case of default under section 285BA. However, section 271FA is included u/s.273B, which provides that the penalty should not be imposed under the concerned sections where there exists a reasonable cause for the failure. Thus, section 271FA is subject to section 273B. The result is that if there exists a reasonable cause for not complying with the provisions of section 285BA, for which the penalty is otherwise imposable u/s 271FA, such penalty will not be levied.

5. Turning to the facts of the instant case, we find the assessee is a small urban cooperative bank. The obligation to file the AIRs u/s.285BA came into being from 01-04-2004. The assessee was not

aware of its obligation and hence never filed its AIR under the relevant section since inception. It was only pursuant to the inspection that it was made aware of its obligation of filing the AIR. Immediately thereafter, the assessee swung into action and filed the AIRs for all the years under consideration. Considering the peculiar facts and circumstances of the case, we are satisfied that there was a reasonable cause for the assessee in not filing the AIRs in terms of section 285BA of the Act. Resultantly, the penalty so imposed u/s.271FA is directed to be deleted.

6. In the result, all the appeals are allowed.

Order pronounced in the Open Court on 24th August, 2023.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

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

पुणे / Pune; दिनांक / Dated : 24th August, 2023
Satish

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT-2, Nagpur.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “नागपुर” बेंच,
/ DR, ITAT, “Nagpur” Bench
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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

		Date	
1.	Draft dictated on	22-08-2023	Sr.PS
2.	Draft placed before author	23-08-2023	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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